

# The Gazette of India



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## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 29th January 1963:—

| Issue No. | No. and Date                         | Issued by                               | Subject   |
|-----------|--------------------------------------|---|---|
| 15        | S. O. 247, dated 25th January, 1963. | Ministry of Steel and Heavy Industries. | Notifying the following revised concessional Col. I & II maximum selling prices (Base) for Prime quality steel and semis for fabrication of Engg. Products for Export only.   |
| 16        | S. O. 248, dated 25th January, 1963. | Ministry of Finance                     | The Central Civil Services (Revised Pay) First Amendment Rules, 1963.   |
| 17        | S.O. 249, dated 28th January, 1963.  | Ministry of Commerce & Industry.        | Making further amendment in the Exports (Control) Order, 1962.  |
| 18        | S. O. 250, dated 28th January, 1963. | Ministry of Information & Broadcasting. | Approval of films specified therein.  |
| 19        | S. O. 251, dated 28th January, 1963. | Ministry of Food and Agriculture.       | Directives that the power conferred on it to make orders under clauses (c), (d) and (f) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), in relation to the prices, stocks and transport of cattle fodder of any of the varieties specified in the Schedule hereto annexed, be exercisable in the districts of Panchmahals and Surat of the State of Gujarat. |
| 20        | S.O. 318, dated 29th January, 1963.  | Ministry of Law.                        | Constituting the Delimitation Commission.   |

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

## PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

## ELECTION COMMISSION, INDIA

New Delhi, the 24th January 1963

S.O. 323.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

## SCHEDULE

| Name and address of the dis-qualified candidate              | Serial No. and name of constituency | Commission's notification No. and date under which disqualified |
|--|-------------------------------------|---|
| I  | 2                                   | 3   |
| Shri Shiv Acharya, Police Lines, Bulandshahr, Uttar Pradesh. | 79-Bulandshahr                      | UP-HP/79/62 (6), dated the 23rd April, 1962.                    |

[No. UP-HP/79/62(6-R)/3653.]

New Delhi, the 25th January 1963

S.O. 324.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

## SCHEDULE

| Name and address of the dis-qualified candidate  | Serial No. and name of constituency | Commission's notification No. and date under which disqualified |
|--|-------------------------------------|---|
| I  | 2                                   | 3   |
| Shri Hutheesing Gunottam Purushottam, Carmichael Road, Municipal House No. 20, Anand Bhavan, Bombay. | 9-Sabarkantha                       | GJ-HP/9/62 (4) Dated the 19th December, 1962.                   |

[No. GJ-HP/9/62(4-R)/3891.]

PRAKASH NARAIN, Secy.

New Delhi, the 1st February 1963

S.O. 325.—In pursuance of section 106, of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order pronounced on the 5th January, 1963, by the Election Tribunal, Rajnandgaon.

## BEFORE THE ELECTION TRIBUNAL, RAJNANDGAON.

Presided over by Member, Shri G. P. Tiwari, B. Sc. LL.B.

ELECTION PETITION NO. 258 OF 1962.

Shri Khubchand Baghel son of Judawan Singh resident of Tatyapara, Raipur, District Raipur, M.P.—Petitioner.

## Versus

1. Shri Vidyacharan Shukla son of Pandit Ravishankar Shukla, resident of Budhapara Raipur, Distt. Raipur, M.P.
2. Shri Indradeo Tandon son of Sira Singh resident of village Jhara, P.O. Khalari Tahsil Mahasamund, Distt. Raipur, M.P.
3. Shri Dharmjit Singh son of Tribuwan Singh resident of Sarangarh, District Raigarh, M.P.
4. Shri Ramsingh son of Ganesh Ram resident of Lalpur, P.O. Bagbahara, Tah. Mahasamund, Distt. Raipur, M.P.—Respondents.

## ORDER

(passed this 5th day of January, 1963).

This is an election petition under section 80 of the Representation of People Act, 1951, hereinafter referred to as the Act.

2. The petitioner and the four respondents were contesting candidates for the Lok Sabha seat from the Mahasamund Lok Sabha Constituency, of the State of Madhya Pradesh in the last general elections. The petitioner was in official candidate of the Praja Socialist Party. Respondent No. 1 was the official candidate of the Congress Party. The other respondents also represented other Parties. As a result of the poll respondent No. 1 was declared elected as Member of the Lok Sabha from the aforesaid Constituency, on 27th February, 1962. The total number of votes polled by the 1st respondent were 56,664, and by the petitioner 53,872. Respondent No. 2 polled 9,138; respondent No. 3 polled 23, 889 and respondent No. 4 polled 14,532 votes.

3. The case of the petitioner is that one Tikamchand Jain, who was the Secretary of Mandal Congress Committee, Mahasamund was an important agent and worker of respondent No. 1. One pamphlet annexure-1 in Hindi, in the name of Shri Tikamchand Jain was distributed in the whole Constituency between the 16th and 23rd February, 1962. The respondent No. 1 was responsible for the publication of this pamphlet in the name of Shri Tikamchand Jain. At any rate it was published with full consent and knowledge of respondent No. 1. It was distributed by respondent No. 1 himself and by his agents and workers with his consent. The statement in the last but one para of the pamphlet annexure-1 is that the petitioner had levelled false and filthy charges against late Pt. Ravishankar Shukla (father of 1st respondent) and these charges were published from time to time in the issue of Blitz of Bombay. Another statement is that during the damages suit (filed by the 1st respondent against Dr. Ram Manohar Lohia) the petitioner backed out from proof of the above mentioned false charges. The petitioner has alleged that he never levelled any charges or made any allegations against late Pt. Ravishankar Shukla, which were published in the Blitz. The Blitz in its issue dated 20th July, 1957 published certain allegations against late Pt. Ravishankar Shukla, and these allegations were reported to have been made by Dr. Ram Manohar Lohia and Dr. S. M. Hasan. The petitioner was not responsible for the alleged charges levelled against late Pt. Ravishankar Shukla. The civil suit for damages for defamation was filed in the Court of Civil Judge, Jabalpur, by the 1st respondent (son of late Pt. Ravishankar Shukla) against Dr. Ram Manohar Lohia, and Editor and Staff Correspondent of the Blitz. The petitioner had nothing to do with the suit. He was not called upon to substantiate those charges or allegations. There was no question of his backing out from proving the charges or allegations. The respondent No. 1 as also his agent and worker Tikamchand Jain knew that the statement of facts made in the last but one para of the pamphlet, are false. At any rate they did not believe them to be true. By these false statements respondent No. 1 attacked the petitioner's personal conduct and character.

4. In the last para of the pamphlet annexure-1 it is stated that the petitioner was President of the Reception Committee, of the Betul Convention of the Praja

Socialist Party. It is further stated that Rs. 16,000 was collected as subscription for the said convention and the petitioner did not submit accounts of this sum inspite of demands by the Reception Committee. The petitioner has alleged that he was not President of the Reception Committee of the Butul Praja Socialist Party Convention. The petitioner was never entrusted with a sum of Rs. 16,000 or any amount. The above allegations in the last para of pamphlet annexure-1 are false. Respondent No. 1 and his agent and worker Shri Tikamchand Jain knew that the above allegations are false. At any rate they did not believe them to be true. By making these allegations respondent No. 1 has attacked the personal character and conduct of the petitioner.

5. The allegations in the last para and also in the last but one para of pamphlet annexure-1, are false. Respondent No. 1 and his agents and workers including Tikamchand Jain knew them to be false or at least did not believe them to be true. They were against the personal character and conduct of the petitioner. The allegations were reasonably calculated to prejudice the prospect of petitioner's election. It is, therefore, contended that respondent No. 1, his agent and worker Shri Tikamchand Jain as also other agents and workers are guilty of corrupt practice under section 123(4) of the Act. The particulars about the printing of the pamphlet and its distribution are given by the petitioner. The petitioner has, therefore, claimed a declaration that the election of respondent No. 1 is void because of the above mentioned corrupt practice.

6. The petition was contested by respondent No. 1 alone. The other respondents have remained *ex parte*.

7. The 1st respondent has denied publication and distribution of the pamphlet annexure-1. He has denied that Tikamchand Jain was his agent or worker. It is further denied that respondent No. 1 through his agents or workers, including Tikamchand Jain, published or got published the pamphlet annexure-1, in the Constituency. Respondent No. 1 was not at all concerned with the said pamphlet either directly or through anyone else. Respondent No. 1 had positively not authorised anyone to publish any such pamphlet. There was no consent or knowledge of respondent No. 1 in the publication or distribution of the said pamphlet. On the contrary the 1st respondent had instructed all his workers not to indulge or carry on any acts prohibited by law, particularly by the provisions of Representation of People Act, 1951.

8. The statements of facts in the last two paras of the pamphlet are not against the personal character and conduct of the petitioner. The petitioner was a political colleague of Dr. Hasan. He had resigned his Parliamentary Secretaryship with Dr. Hasan. He left Congress party and joined the opposition Party with Dr. Ram Manohar Lohia, Dr. Hasan and others. That Party was politically opposed to late Pt. Ravishanker Shukla, who was the Chief Minister of Madhya Pradesh and leader of the Congress Party. Dr. Ram Manohar Lohia and Dr. Hasan were publicly making false charges against late Pt. Ravishanker Shukla, who was father of 1st respondent. Similarly the petitioner had indulged in levying false charges against Pt. Ravishanker Shukla, from public platform. Petitioner's political association with Dr. Ram Manohar Lohia and Dr. Hasan would have reasonably led anyone to believe that he was a party to the opinions voiced by his political friends.

9. The 1st respondent has admitted that he filed a suit for damages for defamation, against Dr. Ram Manohar Lohia and the Staff Correspondent of the Blitz, with respect to false charges made in the issue of the Blitz. The 1st respondent does not know whether the petitioner was President of the Reception Committee of the Betul convention of Praja Socialist Party. The petitioner was, however, an important leader of that Party. He had also an important role to play at that conference, as organiser and leader of that Party. The 1st respondent alleges that to his information, the petitioner had moved along with his partymen to collect funds in the said conference. The petitioner's role *vis-a-vis* his Party was such that anyone would have reasonably believed that the collection of funds for the said conference, was attended with political and public duty. The statements of facts in the last two paras of the pamphlet are not against personal character or conduct of the petitioner. The allegations were not reasonably calculated to prejudice the prospects of the petitioner's election. The 1st respondent has, therefore, contended that no corrupt practice was committed by either himself or by his agents and workers with his consent. The election of respondent No. 1, cannot, therefore be held to be void.

10. The 1st respondent has claimed that the petition is not framed in accordance with sections 81 and 82 of the Act, and it is, therefore, liable to be dismissed under section 90(3) of the Act. The petition also does not comply with the provisions of section 83 of the Act. There are various vague allegations and details of the alleged corrupt practice. They are not supported by a proper affidavit. The source of information is also not stated in the petition or in the affidavit. The allegations should, therefore, be struck off and the petition is liable to be dismissed on this ground.

11. The following issues were struck and the findings are noted against each:

| <i>Issues</i>   | <i>Findings</i>  |
|---|--|
| I (a) Whether one Shri Tikamchand Jain was Secretary of Congress Committee Mahasamund, and was an agent and worker of respondent No. 17.  | Tikamchand Jain was Secretary of Congress Committee Mahasamund.                              |
| (b) Whether pamphlet Annexure 'I' was printed at Saraswati Printing Press Mahasamund ?  | Yes  |
| (c) Whether the pamphlet annexure 'I' was published and circulated by respondent No. 1, Tikamchand Jain, other agents and workers of respondent No. 1 with consent of respondent No. 1, in the Constituency between 16th and 23rd Feb. 1962 ? | It was published by respondent No. 1 and also by others with the consent of respondent No. 1 |
| (d) Whether the statements contained in paras 4 and 5 of annexure 'I' are against personal character and conduct of the petitioner ?  | No   |
| (e) Whether those persons who published and circulated the pamphlet knew or believed the statements to be false or did not believe them to be true ?  | No   |
| (f) Whether the statements were reasonably calculated to prejudice the prospects of the election of the petitioner ?  | No   |
| II (a) Whether respondent No. 1, with his agents and workers committed corrupt practice under section 123(4) of the Representation of People Act, 1951 ?  | No   |
| (b) Whether the election of respondent No. 1 is void ?  | No   |
| III (a) Whether the petition does not contain full particulars of the corrupt practice as required by section 83 (1) (b) of the Representation of People Act, 1951 ?  | No   |
| (b) Whether there is no proper affidavit of petitioner in support of the allegations of corrupt practice as required by section 83 of the Representation of People Act, 1951 ?  | The affidavit is not proper.   |
| (c) What would be the effect on the petition ?  | No effect on the petition.   |
| IV (a) Whether the petition is not framed in accordance with the provisions of sections 81 and 82 of the Representation of People Act ?   | No   |
| (b) If not, should the petition be dismissed under section 90(3) of the Representation of People Act ?  | No   |
| V. What direction regarding cost should be given ?  | Petition dismissed. Petitioner will pay the cost of respondent.                              |

#### REASONS FOR THE FINDINGS

12. Issue No. IV(a) and (b).—The learned counsel for the 1st respondent has urged that the petition is barred by time. No such specific plea was taken in the reply of the 1st respondent. The only plea which may be said to be relevant is contained in para 13(a) of the reply. The plea is that the petition is not framed in

accordance with sections 81 and 82 of the Act. On the basis of this the learned counsel for the 1st respondent has urged that the petition is not filed within 45 days from the date of election, as provided under section 81 of the Act. Admittedly the date of election in this case is 27th February 1962. The election petition was filed before the Election Commission of India on 12th April 1962. The question would be whether the election petition is filed within 45 days from 27th February 1962.

13. The learned counsel has relied on the case reported in 17 E.L.R. 126: *Chandra Shekhar Prasad and another v. Jai Prakash Singh* of the Patna High Court. In this case their Lordships of the Patna High Court were interpreting rule 26 (3) of the Representation of the People (Preparation of Electoral Rolls) Rules, 1956. The relevant words were "within a period of seven days from the date of such posting". It was held that the day on which copy of the notice is posted should also be included in the period of seven days. Even if this interpretation is accepted, the election petition would still be within the period of limitation. Forty-five days would mean clear forty-five days and not forty-four days as argued by the learned counsel for the 1st respondent. Within forty-five days would mean till the last moment of the expiration of forty-five days. Thus, even if the 1st day 27th February 1962 is not excluded, the election petition would still be within forty-five days. The analogy of the interpretation as laid down in the above mentioned decision of the Patna High Court does not, however, in my opinion apply to the present case. Under the provisions of the General Clauses Act and the Law of limitation, the day on which the cause of action arose has got to be excluded. Therefore, 27th February 1962 the day of election would be excluded in computing the period of limitation.

14. In I.L.R. 1953 Nagpur, 267: *Avi J. Cama v. Hanwari Lal and others*, their Lordships of the Nagpur High Court were interpreting the word "within" for computing the period of limitation. At page 276 the relevant observations are:

"Within" in relation to time means "in the limits of" (a period of time), "before the end of" and "after not more than".

In my opinion, therefore, the election petition was filed within forty-four days as the date of election 27th February 1962 would be excluded. Even if 27th February 1962 is not excluded, the election petition would still be within the prescribed period of forty-five days. The argument of the learned counsel for the 1st respondent does not, therefore, merit serious consideration. The election petition was filed within the period of limitation as provided by section 81 of the Act.

15. The next contention of the learned counsel for the 1st respondent is that the election petition is not framed in accordance with section 82 of the Act. This plea is also in para 13(a) of the petition. It is not specifically and clearly stated for what reasons and on what grounds the election petition is not in conformity with section 82 of the Act. The 1st respondent had filed a separate application on 13th July 1962. This was interlocutory application No. 1. The ground which was taken up in this application was that the election petition was to be instituted only against the returned candidate respondent No. 1, as the petitioner had only claimed that the election of the 1st respondent was void. The joinder of other contesting candidates respondents Nos. 2, 3 and 4 was, therefore, not in conformity with section 82(a) of the Act and it was, therefore, contended that the election petition should be dismissed under section 90(3) of the Act. On the above mentioned application I did not pass any order and directed that this point should be raised by the 1st respondent in his reply or written statement and then the question would be decided. Against this Tribunal's above order the 1st respondent went up in a writ to the High Court of Madhya Pradesh, Jabalpur. In Misc. Petition No. 209/62, their Lordships of the Madhya Pradesh High Court, by agreement of parties, decided the above objection of the 1st respondent and held that the election petition does not incur dismissal under section 90(3) of the Act. That point is, therefore, closed.

16. Another point was taken up by the learned counsel for the 1st respondent for the first time in argument, with respect to section 82(b) of the Act. The learned counsel has urged this point on the evidence of P.W. 13 Vishnucharan. This witness has stated that one Abdul Hamid Dani was an official Congress candidate from Basna Assembly Constituency of Madhya Pradesh. This constituency falls within Mahasamund Parliamentary Constituency of which the election is challenged in the present election petition. Witness Vishnucharan has stated in his evidence that Abdul Hamid Dani distributed the pamphlet annexure-1 in Basna on 20th February 1962 about 3 days before the date of polling. The learned counsel for the 1st respondent on the basis of this evidence, has urged that a candidate Abdul Hamid Dani has committed corrupt practice and, therefore, under section

82(b) of the Act Abdul Hamid Dani was a necessary party. As he is not added as a party in the election petition, the election petition merits dismissal under section 90(3) of the Act. This argument is patently untenable. Section 82(b) of the Act runs thus:

"82(b) any other candidate against whom allegations of any corrupt practice are made in the petition"

The word 'candidate' is defined in section 79(b) of the Act. It means a person who has been duly nominated as a candidate at any election. Section 32 of the Act provides that any person may be nominated as a candidate for election to fill a seat. Therefore, the only interpretation of the word 'candidate' in section 82(b) of the Act would be a person who is validly nominated to fill a seat for the Parliamentary election from Mahasamund constituency. By no stretch of imagination Abdul Hamid Dani could be a candidate as envisaged by section 82(b) of the Act. Secondly section 82(b) of the Act provides for joining as party a candidate against whom allegations of corrupt practice are made in the petition. Here no allegations of corrupt practice are made in the election petition against Abdul Hamid Dani. The allegations are made in the evidence of a witness P.W. 13 Vishnucharan. They are merely allegations and it is still a moot point whether Abdul Hamid Dani actually distributed the pamphlet annexure-1 and whether the distribution of annexure-1 would at all constitute a corrupt practice. The argument of the learned counsel for the 1st respondent is insubstantial and does not merit any consideration whatever.

17. The finding on issue No. IV(a) is, therefore, that the petition is framed in accordance with the provisions of sections 81 and 82 of the Act. On issue No. IV(b) the finding is, therefore, that the election petition cannot be dismissed under section 90(3) of the Act.

18. *Issue No. III(a), (b) and (c).*—This issue has been framed on the contention raised by the 1st respondent in para 13(b) of the written statement. The 1st respondent has contended that the petition does not comply with the provisions of section 82 of the Act because the various allegations about alleged corrupt practice are vague and they are not supported by a proper affidavit. The source of information is not stated in the petition or in the affidavit. It is, therefore, contended that the allegations should be struck off. Section 83(1)(b) of the Act lays down that an election petition shall set forth full particulars of any corrupt practice, including as full a statement as possible of the names of parties alleged to have committed such corrupt practice, and the date and place of the commission of such corrupt practice. At the end of para 11 of the petition the names of persons who are said to have distributed the objectionable pamphlet, the places of distribution and the dates of distribution are given. In my opinion this is sufficient compliance with the requirements of section 83(1)(b) of the Act. There is no vagueness in the particulars. The source of information is not required to be stated.

19. The proviso to section 83(1) of the Act lays down that an election petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof. There is an affidavit of petitioner. This was filed along with the election petition. It is true that the affidavit does not state about the particulars of the corrupt practice which are stated at the end of para 11 of the petition. In the affidavit it has, however, been stated that the particulars given in paras 11(a) and (b) are true to the information received by the petitioner. In my opinion, this is sufficient compliance with the requirements of law. No argument was advanced by the learned counsel for the 1st respondent on this point. It appears that the petitioner led some evidence about which the particulars have not been given. That is a matter which will be considered when that evidence is discussed.

20. The finding on issue No. III(a) is that the petition contains full particulars of the alleged corrupt practice as stated in the petition. On issue No. III(b) the finding is that the affidavit of the petitioner is not strictly in compliance with the proviso to section 83(1) of the Act, but that does not incur either striking off the particulars or dismissal of the petition. On issue No. III(c) the finding is that the particulars cannot be struck off and the petition cannot be dismissed.

21. *Issue No. I(a), (b) and (c).*—I will take up these three issues together as they are connected. P.W.5 Tikamchand Jain is the Secretary of the Mahasamund Mandal Congress Committee. He admits this. That is also the evidence of P.W.4 A. V. Krishna Rao and P.W.2 Shyamal Pande. Tikamchand Jain states that in the last general elections he was working and canvassing for the Congress Party and

its official candidates including the 1st respondent who was official Congress candidate from the Mahasamund Parliamentary constituency. He has deposed that he gave the draft Ex. A-2 of annexure-1, for printing at Saraswati Printing Press Mahasamund. He got 25,000 copies printed at the above Printing Press. P.W.4 A. V. Krishna Rao is the Managing Director of this Printing Press. He has deposed that pamphlet annexure-1 was printed in his press and that Tikamchand Jain was the person who gave him the draft Ex. A-2 for printing 25,000 copies. The witness has further deposed that after printing 25,000 copies he delivered them to Tikamchand Jain. On issue No. I(a) the finding is, therefore, that P.W. 5 Tikamchand Jain was the Secretary of the Mandal Congress Committee, Mahasamund. Whether he was agent and worker of respondent No. 1 would be discussed subsequently. On issue No. I(b) the finding is that the pamphlet annexure-1 was got printed by P.W.5 Tikamchand Jain at Saraswati Printing Press, Mahasamund.

22. P.W.5 Tikamchand Jain has stated that he got 25,000 copies printed of the pamphlet annexure-1. He says that he personally distributed some copies in Mahasamund, Tumgaon, Khatti and Bemcha and he might have distributed copies in other villages also. He gave some pamphlets for distribution to Congress workers of Basna and Saraipal Assembly Constituencies. The witness has denied that respondent No. 1 Vidya Charan Shukla had any concern in the printing or distribution of the pamphlet. He further says that he did not take any approval or consent of Vidyacharan Shukla for printing or distribution of the pamphlet. The witness takes all the responsibility for printing and distribution on himself. It may be remembered that this witness is an active worker of the Congress party and his evidence cannot be taken on its face value. The witness accepts that another pamphlet Ex. R-1 which is the official Congress pamphlet with the symbol of pair of yoked bullocks was distributed in Mahasamund town and he is a signatory to this pamphlet. This also shows his interest in the Congress organisation and its official candidates. The pamphlet Ex. R-1 was got printed by the 1st respondent Vidya Charan Shukla at the Saraswati Printing Press of which P.W. 4 A. V. Krishna Rao is the Managing Director. This would appear from the evidence of these two persons.

23. The learned counsel for the petitioner has argued on the basis of evidence of P.W.4 A. V. Krishna Rao and P.W.5 Tikamchand Jain that possibly the pamphlet annexure-1 was got printed by respondent No. 1 Vidyacharan Shukla and that these witnesses are trying to suppress that fact. No such inference can be drawn by reading the evidence of these two persons. P.W. 4 A. V. Krishna Rao has stated that the draft of annexure-1 was given to him for printing by Tikamchand Jain and that he gave 25,000 copies to Tikamchand Jain after printing. He gave a bill dated 1st February 1962 for Rs. 125/- to. Tikamchand Jain. He had brought the bill book in the Court. Tikamchand Jain has stated that his signature was taken in an order book and he does not remember whether his signature was taken on any bill book. Probably there is some confusion between an order book and bill book. From this little discrepancy no inference can be drawn. The bill is dated 1st February 1962 while in the pamphlet annexure-1 in para 2 there is a mention of a date 6th February. It is argued by the learned counsel for the petitioner that a pamphlet printed on or before 1st February 1962 cannot make a mention of a subsequent date 6th February. This discrepancy should have been brought to the notice of P.W.4 A. V. Krishna Rao and P.W.5 Tikamchand Jain. They might have some reasonable explanation for this. It is possible that 6th February may be of the previous year. It might be purely a mistake in the draft. This discrepancy does not lead to any inference.

24. The evidence of P.W.3 Shri S. C. Verma, Collector and Returning Officer is that he had received an application dated 6th April 1962 from Shri K. N. Sharma, Secretary of District Praja Socialist Party, Raipur bringing to his notice the publication of pamphlet annexure-1. The witness, therefore, wrote to the press on 8th April 1962 to report whether the pamphlet was published by them and to file a declaration. He received a reply dated 11th April 1962 from the Press along with the pamphlet annexure-1. The witness says that the reply of the Press was silent about the required declaration. The witness, therefore, again wrote to the Press on 16th May 1962 to file the declaration. Thereafter the Press sent the original draft of the pamphlet containing the declaration. I have seen the original draft Ex. A-2 which also contains the declaration at the foot of the draft. Though the original draft and the declaration are in different hand writing no inference whatever can be drawn from it. The learned counsel for the petitioner has suggested that the declaration was made subsequently. That inference cannot be drawn. Even if it was made subsequently it does not suggest that the 1st respondent had anything to do with it. The learned counsel for the petitioner has further argued on the

basis of evidence of P.W.5 Tikamchand Jain that the witness is trying to suppress about the authorship of the draft Ex-A-2. The witness has stated that the draft is in the hand writing of a Congress worker who is son of Ex-Congress M.L.A. Mr. Satpati. He does not know the name of that person. This evidence also does not disclose that the 1st respondent has anything to do with the draft. It may merely suggest that Tikamchand Jain is probably not trying to disclose the name of the person.

25. The witness P.W.5 Tikamchand Jain was sought to be questioned in the nature of cross-examination by petitioner's counsel without seeking the permission of the Court to declare him hostile and to cross-examine him. He was questioned regarding the papers which he used for getting the pamphlet annexure-1 printed. He said that he got the papers from some friends. The witness had been summoned to produce his account books. He did not produce them. The account books were sought probably to prove whether the witness had paid printing charges for the pamphlets annexure-1. The witness said that he had not till then paid for printing annexure-1. P.W.4 A. V. Krishna Rao has also stated that the amount of printing is still outstanding against Tikamchand Jain. In my opinion no inference can be drawn from the above mentioned evidence that respondent No. 1 was responsible for printing the pamphlet annexure-1. I have already said earlier that Tikamchand Jain is an active Congress worker and that he was a Congress worker and canvasser in the last general election. His sympathies are, therefore, naturally with respondent No. 1 who was official Congress candidate. His evidence that the 1st respondent had absolutely nothing to do with the publication of annexure-1 and that he had no consent of the 1st respondent for publication of the pamphlet, cannot therefore, be taken seriously.

26. P.W.13 Vishnucharan of Basna, within Basna Assembly Constituency, has stated that about three days before the date of polling he saw the 1st respondent Vidyacharan Shukla distributing the pamphlet annexure-1 on the motor stand. He further says that on the same day and on the next day Abdul Hamid Dani who was official Congress candidate, of Basna Assembly Constituency distributed the same pamphlet. An objection was taken to the evidence of this witness on the ground that in the particulars about corrupt practice there is no mention about what the witness has stated. At the end of para 11 of the petition the petitioner has given particulars about the names of persons, places of distribution and dates of distribution. In these particulars I do not find any allegation about distribution of the impugned pamphlet by this witness at Basna. His evidence for want of necessary particulars cannot be considered as it would prejudice the 1st respondent and as it springs a surprise on him. It would appear from the evidence of this witness that he is interested in the petitioner. The witness deposes that whoever approached him for advise for voting, was told to vote for the petitioner. The interest of the witness in the petitioner is, therefore, obvious.

27. P.W. 14 Manharan Lal of Birkoni deposes that 7 or 8 days before the date of poll respondent No. 1 Vidyacharan Shukla and one Sikh gentleman came to his village in a jeep car. He further says that two or three pamphlets annexure-1 were distributed by Vidyacharan Shukla and other pamphlets were distributed by a Congress worker one Milapram. From the cross-examination of this witness it would appear that P.W. 10 Bhekial and P.W.8 Gayalal are his relations and P.W.1 Kirti Kumar is sworn friend of his brother Chamanlal. This relationship does not appear to be material. Bhekial, Gayalal and Kirti Kumar do not appear to have any particular interest in the petitioner. The witness has deposed that he did not tell the petitioner about the distribution of the pamphlet which was seen by him. The petitioner in para 22 of his evidence has also not said that he was informed about distribution by this witness. That is not very material. It is possible that the petitioner might have known about the knowledge of this witness through other source as the pamphlet annexure-1 was distributed very widely.

28. The 1st respondent has examined Milapram R.W.2. He has deposed that he did not distribute the pamphlet annexure-1 and that 1st respondent Vidyacharan Shukla did not visit his village during the last general election. This witness has accepted that he is a Congress worker and that he was working for the Congress party in the last general election. He therefore, appears to be a witness interested in the Congress organisation and therefore, in the official Congress candidate 1st respondent. His evidence, therefore, cannot be seriously taken. In the particulars given at the end of para 11 of the petition there is also a mention that the 1st respondent distributed the pamphlet annexure-1 at village Birkoni. In my opinion, therefore, from the evidence of P.W. 14 Manharan Lal it has been established that the 1st respondent and Milapram, a Congress Worker, distributed the pamphlet annexure-1 in village Birkoni.

29. P.W.18 Sukhchain Singh has deposed that one day before the Rajim fair which was on the *Magh Panni* day, he saw the 1st respondent distributing pamphlet annexure-1 in his village Tamora. In the list at the end of para 11 of the petition there is a mention that the pamphlet was distributed in village Tamora on 18th February 1962 by the 1st respondent. The witness has deposed that he did not tell the petitioner about the distribution of the pamphlet. The petitioner in para 22 of his evidence has also not stated that he received any information about distribution from this witness. This is, however, not very material as the petitioner could have received information through other source also.

30. The 1st respondent in this connection examined Nizam Singh R.W.3 of Tamora. This witness has stated that no such pamphlet like annexure-1 was distributed in his village and that 1st respondent Vidyacharan Shukla did not visit his village during the last general election. This witness is a Congress worker and he had worked for the Congress in the last general election. He is, therefore, naturally a witness interested in the 1st respondent who was an official congress candidate. His evidence, therefore, cannot be seriously taken. In my opinion, therefore, the evidence of the witness P.W.18 Sukhcharan Singh establishes that the pamphlet annexure-1 was distributed by 1st respondent in village Tamora within Mahasamund Assembly Constituency.

31. P.W.28 Chaturbhuj Panda of village Rengarpali within Pusaud Assembly Constituency, which falls within Mahasamund Parliamentary Constituency deposed that two or three days before the date of poll the 1st respondent distributed pamphlet annexure-1 in his village. The polling station is also in his village Rengarpalli. There is no mention in the particulars given at the end of para 11 of the petition that the 1st respondent distributed pamphlet annexure-1 at Rengarpali in Pusaud Assembly Constituency. For this reason the evidence of this witness cannot be considered, because it springs a surprise on the 1st respondent and prejudices his case. The particulars were not given by the petitioner. This witness is an active worker of the Praja Socialist Party (PSP), of which the petitioner is an official candidate, and therefore, he is interested in the petitioner.

32. P.W.5 Tikamchand Jain whose interest in the 1st respondent is obvious, though he was examined as a witness for the petitioner, has deposed that he personally distributed some copies of pamphlet annexure-1, in Mahasamund town, Tumgaon Khatti, Bemcha and other villages also. He also got some copies of the pamphlet distributed through others. He had given some copies for distribution to congress workers in Basna and Saraiपाली assembly constituencies. This witness in cross-examination states that about 2,000 copies were distributed by him and by others. The witness is an active Congress worker. He actively canvassed and worked for the Congress organisation and its official candidates, including the 1st respondent, in the last general election. P.W.2 Shyamal Pande of Mahasamund has deposed that in the last general election on 21st and 22nd February, 1962 Tikamchand Jain distributed the pamphlet annexure-1 in Mahasamund town. The 1st respondent was seen moving with Tikamchand Jain at the time of distribution of the pamphlet.

33. P.W. 6 Manilal Sahu deposes that in the last general election he was working in the Congress office at Mahasamund. This evidence finds support in the cross-examination of P.W. 2 Shyamal Pande. Manilal Sahu deposes that he saw the pamphlet annexure-1 in the hands of some persons and also on a pan shop, though he did not see its distribution by anybody. His evidence is further that one Dubeji, a relation of 1st respondent was keeping copies of this pamphlet in the Congress office at Mahasamund. The 1st respondent R.W. 1 Vidyacharan Shukla has admitted in para 23 of his evidence that one O. P. Dube of Kanauj is his relative and that he had gone to Mahasamund. P.W. 9 Sharada Prasad of Mahasamund has deposed that on 22nd February 1962 1st respondent P.W. 5 Tikamchand Jain and P.W. 4 A. V. Krishna Rao met him in front of his house, and the 1st respondent gave him pamphlet annexure-1. P.W. 17 Khedu Prasad pan shop owner of Mahasamund has deposed that Tikamchand Jain and Omprakash Dube distributed the pamphlet annexure-1 in front of his pan shop. This Omprakash Dube is a relation of the 1st respondent. Though the witness appears to be confused regarding the contents of the pamphlet his evidence is nevertheless satisfactory. There is corroboration of other witnesses regarding distribution of the pamphlet by Tikamchand Jain and 1st respondent at Mahasamund town.

34. P.W. 11 Rattanjal of Bhoring which is situated within Mahasamund Assembly Constituency, has deposed that in the last general election he was working for the Congress organisation. On 26th January, 1962 he was called to the Congress office where the 1st respondent Vidyacharan Shukla, Tikamchand Jain,

Gajadhar Pande, Baji Rao and Dube were present. He and his brother were engaged to work for the Congress on wages. He was given a cycle by Tikamchand Jain and his brother was given a cycle by Dube who appears to be the relation of 1st respondent. The witness deposes that after the general election he tried to return the cycles to Tikamchand Jain who did not take them back. Tikamchand Jain also did not pay the wages. The witness then reported at police station Tumgaon on or about the 7th March, 1962. The report is Ex. A-3 which has been proved by P.W. 7 M. R. Sonekar, Sub Inspector of Police. The report corroborates the evidence of this witness. The evidence of this witness would therefore show that Tikamchand Jain was associated with the 1st respondent at the time of the last general election.

35. P.W. 12 Kailashchandra Bhoi of Mahasamund has his house in Sarai-pali. He works as a Pleader both at Mahasamund and Sarai-pali. His evidence is that on 18th February 1962 at Sarai-pali 1st respondent Vidyacharan Shukla gave some copies of pamphlet to a congress worker Kishori Mohan for distribution at Sarai-pali. A bundle of the pamphlets was brought from a jeep car by the driver of 1st respondent and the bundle was kept in the office of the witness. This office according to the witness was used by Mr. Satpati, an official congress candidate of Sarai-pali Assembly Constituency, as congress office. The witness says that he had given his office temporarily for use by Mr. Satpati. The witness came to that house in the night and saw the pamphlet annexure-1 which was directed against the Praja Socialist Party and its Leaders including the petitioner. In this connection the 1st respondent has examined R.W. 4 Kishori Mohan Das who has deposed that he was a Congress worker in Sarai-pali. He states that he did not distribute any such pamphlet like annexure-1 and he did not see distribution of any such pamphlet. He also states that 1st respondent did not meet him during the last general election. This witness is obviously a witness interested in 1st respondent, as he is a congress worker. He has also stated in cross-examination that the office of Satpati was not in the house of P.W. 12 Kailashchandra Bhoi, but it was in his own house which is in front of the house of Kailashchandra Bhoi. Though P.W. 12 Kailashchandra Bhoi has leanings towards the P.S.P. of which the petitioner is the official candidate, he is a witness of status being a Pleader. There is considerable evidence as discussed earlier that the pamphlet annexure-1 was distributed at other places by the 1st respondent and also by others. There is also the evidence of P.W. 5 Tikamchand Jain that he had sent the pamphlet for distribution in Sarai-pali Constituency also. With this background I have no reason to discard the evidence of P.W. 12 Kailashchandra Bhoi.

36. P.W. 19 Laxman Prasad states that he was a driver of the jeep car MPE. 113 which was used by the 1st respondent for propaganda during the last general election. The witness deposes that the 1st respondent and also other Congress workers used to move out in the jeep car which he drove. According to the evidence of the witness the pamphlet annexure-1 with the heading "JHOPDI CHAP KA PHARDA PHAS" under the name of Tikamchand Jain was distributed from the jeep car at village Tamora, Birkoni and Tumgaon. The witness says that on one or two occasions 1st respondent Vidyacharan Shukla was present when the pamphlet was distributed. There is evidence as already discussed earlier that the pamphlet was distributed by the 1st respondent at Birkoni and Tamore. That evidence, therefore, corroborates this witness. The witness further deposes that the pamphlet annexure-1 was kept at Congress office Mahasamund and it was also kept at the Sarai-pali house of Kailashchandra Bhoi of Mahasamund. The evidence of this witness finds corroboration in the evidence of other witnesses. In his cross-examination at the end of para 2 the witness has stated that he had not personally received summons but it was delivered to his wife and he appeared in Court as his wife gave him the summons. This statement does not appear to be true because the summons of this witness was returned unserved. This alone cannot be a ground for discarding the evidence of this witness. He might have known through other source that he had to appear as a witness on a certain date on which he appeared. In connection with the evidence of this witness, the 1st respondent Vidyacharan Shukla has deposed that he had used the jeep car MPE-113 only till 26th January 1962 on which date he transferred possession to R.W. 9 Shrikrishna Agarwal of Baghahera. Shrikrishna Agarwal also corroborates the 1st respondent on this point. Shrikrishna Agarwal appears to be an interested witness. He is an active Congress worker. The evidence of Shrikrishna Agarwal would disclose that the registration of the jeep was transferred in his name in May 1962 and the price was also finally settled in May 1962. It is, therefore, difficult to accept the evidence of 1st respondent and Shrikrishna

Agarwal that the possession of the car was transferred by the 1st respondent to Shrikrishna Agarwal on 26th January, 1962.

37. P.W. 1 Kirti Kumar of Badgaon has stated that on 16th or 17th February, 1962 one person representing to be a nephew of the 1st respondent distributed the pamphlet annexure-1 in his village. From para 4 of the evidence of P.W. 11 Rattanlal it would appear that this witness Kirti Kumar was working for the Praja Socialist Party in the last general election. The witness has, therefore, interest in the petitioner, who was an official candidate of the P.S.P. The petitioner has also not given the particulars about which this witness has deposed. Consequently I do not accept the evidence of this witness.

38. P.W. 8 Gayalal has deposed that on 19th February 1962 one Rameshchandra Shukla nephew of the 1st respondent was distributing the pamphlet annexure-1 in Rajim fair. P.W. 15 Ranjit Singh has also deposed that on 19th February 1962 the day of Rajim fair, 1st respondent's nephew and other Congress workers distributed the pamphlet annexure-1 in the Rajim fair. The petitioner has mentioned in the list at the end of para 11 of the petition, about distribution of the pamphlet in Rajim fair by 1st respondent's nephew Rameshchandra Shukla. The 1st respondent has admitted that Rameshchandra Shukla is his nephew. The evidence of Gayalal, and Rattan Singh would, therefore, disclose that on 19th February 1962 the day of Rajim fair, 1st respondent's nephew distributed the pamphlet annexure-1 in the Rajim fair.

39. P.W. 10 Bheklal of village Labra has stated that one day before Magh Punni which would be 18th February 1962, Rameshchandra Shukla nephew of the 1st respondent distributed the pamphlet annexure-1 in his village. P.W. 16 Pyarelal has deposed that in the Sirpur fair on 18th February 1962 one Sardar and one other person distributed the pamphlet annexure-1. These particulars have not been given by the petitioner in the list of particulars at the end of para 11 of the petition. I do not, therefore, accept the evidence of these two witnesses Bheklal and Pyarelal.

40. P.W. 20 Brijbhushan Sharma stated that three or four days before the date of polling one Prithvipal Singh distributed the pamphlet annexure-1 in Sarangarh town, within Sarangarh Assembly Constituency. P.W. 22 Barendranath Banerjee has also deposed that on 16th February 1962 Prithvipal Singh a Congress worker distributed the pamphlet annexure-1 in Sarangarh town. Prithvipal Singh R.W. 6 has stated that he did not distribute any such pamphlet. He is a congress worker and, therefore, a witness interested in the 1st respondent. In the particulars supplied by the petitioner at the end of para 11 of the petition it is mentioned that the pamphlet was distributed in Sarangarh town. Though Brijbhushan Sharma and Barendranath Banerjee are P.S.P. workers and are therefore, interested in the petitioner, their evidence about the distribution of the pamphlet in Sarangarh cannot be rejected on this ground.

41. P.W. 21 Hariprasad has stated that one Hetram Pandit of Tamsara and 1st respondents' nephew Rameshchandra Shukla distributed the pamphlet annexure-1 in Sarangarh town three or four days before the date of poll 19th February 1962. P.W. 22 Barendranath Banerjee has also deposed that this Hetram Pandit distributed pamphlet annexure-1 on 16th February 1962 in village Dansera. Hetram R.W. 5 was examined by the 1st respondent. He is a congress worker. He worked for the congress organisation in the last general election. He says that he did not distribute the pamphlet annexure-1. He is interested in the 1st respondent being, a Congress worker. His evidence cannot, therefore, be seriously taken. The particulars given by the petitioner mention that in Sarangarh town Rameshchandra Shukla distributed the pamphlet and Hetram Pandit distributed it in village Dansera and Sarangarh town. I, therefore, accept the evidence of P.W. 21 Hariprasad and P.W. 23 Barendranath Banerjee though they are witnesses interested in the petitioner being Praja Socialist Party workers.

42. P.W. 24 Thakur Ram has stated that Ramrattan Naik and Mohanlal Naik of Congress party distributed the pamphlet annexure-1 in village Baramkela three or four days before the date of poll. This particular has been given by the petitioner at the end of para 11 of the petition. I, therefore, accept this evidence. The witness has also stated that next day the same congress workers distributed the pamphlet in village Tausir. This particular has also been given by the petitioner, I, also therefore, accept this evidence. The evidence of the witness, therefore, indicates that Congress workers distributed the pamphlet annexure-1 in villages Baramkela and Tausir within Pusaud Assembly Constituency which falls within Mahasamund Parliamentary Constituency. P.W. 25 Chitrasen has

deposed that two or three days before the date of poll one Keshochand of Navapara distributed the pamphlet in village Khairgadi. This particular has also been pleaded by the petitioner I, therefore, accept this evidence. P.W. 26 Girdhari Gupta has stated that three or four days before the date of poll Kuber and Munnu Babu were distributing the pamphlet in village Lipti. This particular is not pleaded by the petitioner and, therefore, this evidence cannot be accepted as it would prejudice the 1st respondent's case.

43. The petitioner has sought the declaration that the election of 1st respondent should be declared void under the provisions of section 100(1)(b) of the Act. The section runs thus:

"100(1)(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent."

The corrupt practice alleged by the petitioner is that of sub section (4) of section 123 of the Act. This sub section is in the following terms:

"123(4) The publication by a candidate or his agent or by any other person, (with the consent of a candidate or his election agent), of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election."

In the explanation at the end of section 123 'agent' includes an election agent, a polling agent, and any other person who is held to have acted as an agent in connection with the election with the consent of the candidate. Reading of section 100(1)(b), 123(4) and the explanation at the end of section 123 would show that the requirement of law is that the publication should be by the returned candidate, or his election agent, or by any other person with the consent of the returned candidate or his election agent. In this case there is no question of an election agent as it has not been proved whether any election agent of the returned candidate 1st respondent published the pamphlet annexure-1. What is to be seen in this case is whether the returned candidate respondent No. 1, or any other person with his consent published the pamphlet annexure-1.

44. A chain of election cases decisions have laid down the standard of proof required to prove a corrupt practice. The requirement is that the charge of corrupt practice is one of quasi criminal character. Clear and unequivocal proof is necessary before a charge of corrupt practice can be said to have been established. I will only cite a few important cases. In 20 E.L.R. 275-1961 M.P.L.J. 1361; *Smt. Sarla Devi Pathak v. Birendra Singh Kiledar of Karali and others* their Lordships of the Madhya Pradesh High Court, following the case of A.I.R. 1957 Supreme Court, 444; *Harishchandra Bajpai v. Triloki Singh*, have held that a charge of bribery which is a corrupt practice is a charge of quasi criminal character. Clear and unequivocal proof is required before such a case can be said to have been established. Suspicion alone is not sufficient. In 1958 M.P.L.J. 786-18 E.L.R. 145: *Jamuna Prasad Singh v. Shri Ramnivas and others* it has been laid down that in an election petition which is quasi criminal in character, the burden of proof is on the petitioner to establish the case. In 1960 M.P.L.J. 1917-15 E.L.R. 205: *Maganlal Bagdi v. Hari Vishnu Kamath*, it has been held that the success of a candidate who has won at an election should not be lightly interfered with. The charges of corrupt practice are quasi criminal in character and they must be proved by sufficiently clear and precise evidence.

45. In this case from the evidence discussed by me earlier it has been proved by clear and unequivocal evidence that the 1st respondent himself published the pamphlet annexure-1 at some places within the Mahasamund Parliamentary Constituency. It has also been proved that Tikamchand Jain an active Congress worker who worked in the last general election for the Congress and its official candidates including 1st respondent, published the pamphlet annexure-1 at different places in the Constituency. It has also been proved that other Congress workers published the pamphlet annexure-1 at different places in the Constituency. The association of 1st respondent with Tikamchand Jain at the time of election has also been established. The 1st respondent was an official Congress candidate. The pamphlet was widely distributed in the Constituency at many places by a number of Congress workers including the nephew of the 1st

respondent. Tikamchand Jain was the author of the pamphlet. He got 25,000 copies printed and a number of copies were distributed at different places. Tikamchand Jain was also a signatory to another pamphlet Ex. R-2 which is the official pamphlet of the Congress organisation. This circumstantial evidence can easily lead to the conclusion and inference, that Tikamchand Jain and other congress workers, published the pamphlet annexure-1 at different places in the Constituency, with the consent of 1st respondent.

46. In A.I.R. 1962 Punjab, 129: *Ram Phal Raghu Nath Sahai v. Braham Prakash and others*, their Lordships of the Punjab High Court have made the following observations in para 29:

"The onus of proving corrupt practices is always on those who assert their commission and the commission of such practices has to be established by unimpeachable evidence. Undoubtedly the evidence in support thereof need not be direct and it may be merely circumstantial and inferential but such circumstantial evidence and inferences deducible therefrom must be strong enough to lead to the only reasonable conclusion of the commission of corrupt practices as alleged. No conjectures or surmises however attractive or even plausible can replace proof and if two equally reasonable conclusions or inferences are open, one guilty and the other innocent, the latter is, generally speaking, allowed to prevail."

In 21 E.L.R., 1: *V. B. Raju v. V. Ramchandra Rao and others*, at page 24 their Lordships of the Andhra High Court have observed that consent is a matter of inference and it is not capable of proof by direct evidence. In 19 E.L.R. 175: *Nani Gopal Swami v. Abdul Hamid Choudhury and another* also it has been held that direct evidence of consent of a candidate to a corrupt act may not be available in most cases and it would not be wise to insist upon the production of direct evidence. The consent of a candidate to the act complained of has to be inferred from the facts and circumstances proved in the case.

47. In this case from the evidence and circumstances discussed by me earlier, it has been proved that the 1st respondent personally published the pamphlet annexure-1 at some places in Mahasamund Parliamentary Constituency and that other persons who were Congress workers including Tikamchand Jain, also published the pamphlet annexure-1 at different places in the said Constituency with the consent of respondent No. 1. My finding on Issue No. I(c) is, therefore, that the pamphlet annexure-1 was published and circulated in the Constituency by respondent No. 1, and with his constant by Tikamchand Jain and other Congress workers, between 16th and 23rd February, 1962.

48. *Issues No. II(d), (e) and (f).*—The next requirement of section 123(4) is that the statement of fact contained in annexure-1 is false and which the 1st respondent believed to be false or did not believe to be true. This objectionable statement in annexure-1 are contained in the last but one para, and the last para. The pamphlet is in Hindi. The petitioner has translated the objectionable statements in his election petition para 7. The translation appears as nearly faithful as possible. I will first mention the Hindi part and along with it the English translation as rendered by me. In the last but one para the Hindi part is:—

"स्वार्थ सिद्ध के लिए हन्हीं श्री स्वचन्द्र बघेल ने इस माननीय तथा सम्मानीय नेता के ऊपर भट्ठे और गन्दे आरोप लगाये जो समय समय पर बम्बई के कम्युनिस्ट अखबार बिल्टज़ में छापे गये। जब मानहानि के कंस के दौरान में इन आरोपों को सिद्ध करने का मौका आया तो ये श्री बघेल मुकर गये और अभी 26 जनवरी, 1962 स्वतंत्रता दिवस के दिन इस "बिल्टज़" अखबार ने बिना शर्त इस नेता के भट्ठे और धोखेबाज आरोपों को छापने के लिए सार्वजनिक रूप से क्षमा मांगी। पर श्री बघेल आदत से लाला हैं और वे यह भी जानते हैं कि उनका राजनीतिक अस्तित्व इस तरह की बेकुनियाद घीजों पर आधारित है।"

[For selfish ends this Khubchand Baghel levied false and filthy charges against respected and honoured leader (late Pt. Ravishanker Shukla, father of

1st respondent) which were from time to time published in the Bombay communist paper Blitz. When during the proceedings of the suit for damages for defamation there was opportunity to prove these charges Shri Baghel backed out, and the newspaper Blitz on 26th January 1962, the Republic Day unconditionally and publicly apologised for publishing false and deceitful charges made by this leader. But Shri Baghel is habitual in such conduct and he knows that his political existence is based on such groundless things.]

The Hindi part of the objectionable statements in the last para is as stated below:

‘बैतुल में जो प्रजा समाजवादी पार्टी कान्फरेंस हुई उसकी स्वागत समिति के अध्यक्ष श्री खुबचन्द बघेल थे। इस कान्फरेंस में चन्द द्वारा इकट्ठी की गई 16 हजार रु० की रकम का हिसाब अभी तक श्री खुबचन्द बघेल ने स्वागत समिति के बार बार मांगने पर भी नहीं दिया है। आखिर यह रकम गई कहां? इस सब तथ्यों को जान कर आप सब स्वयं तय कर सकते हैं कि इस तरह के डालडाई नेता और पार्टी आपका या खेत का कहां तक भला कर सकती है।’

The English translation as rendered by me would be somewhat like this:

“Shri Khubchand Baghel was the President of the Reception Committee of the conference of Praja Socialist Party held in Betul. Shri Khubchand Baghel has not yet rendered account of Rs. 16,000 which were raised as subscription for the conference although the Reception Committee has repeatedly demanded the accounts. After all where is the money gone? Having known these facts you all (voters) can yourself decide how far such imitation leaders and party can benefit you and your Constituency.”

49. In the case reported in 22 E.L.R. 385: *Bhim Rao v. Ankush Rao*, their Lordships of the Bombay High Court at page 399 laid down the principle regarding burden of proof. The relevant observations are:

“Just as a person who is standing his trial for an offence before a court of law is presumed to be innocent unless he is shown to be guilty, similarly, in our opinion, when a person's character is assailed he must be presumed to be of good character until and unless it is proved that he is of a bad character. No doubt the section is so worded that the petitioner in the election petition must show that the allegations made against him were false but that provision is a general provision. Where the allegation concerns the character of a person, the ordinary presumption of law must prevail. If that be the correct legal position, the burden would be upon the person who has made defamatory allegations concerning the character of another to prove that they are true.”

This case was cited by the learned counsel for the petitioner. The learned counsel for the 1st respondent cited another case which is reported in 2 E.L.R. 281: *T. K. Gangi Reddy v. M. C. Anjaneya Reddy and others*. The Supreme Court has held that in an election petition, the burden of proving that certain statements alleged to have been published by the respondent, were false and that the respondent believed them to be false or did not believe them to be true, is in the first instance, on the petitioner. If the petitioner examines himself and states that he has not committed the alleged acts and proves circumstances indicating a motive on the part of the respondent to make false allegations against him, the Court is entitled to accept his evidence. The onus would then shift to the respondent to prove circumstances to dislodge the assertions made by the petitioner. If the respondent fails to put before the Court any facts to establish either that the petitioner did in fact commit the alleged acts or to give other circumstances which made him *bona fide* believe that the petitioner was guilty of the acts, the Court is entitled to say that the burden of proving the necessary facts had been discharged by the petitioner.

50. Keeping in view the principles laid down by the Supreme Court I will consider the evidence on the point. The statements in the last but one para are that Shri Khubchand Baghel (petitioner) levelled false and filthy charges against late Pt. Ravishanker Shukla (father of 1st respondent) and these were from time to time published in the Communist paper Blitz of Bombay. Another statement is that during the proceedings of the suit for damages for defamation (the suit was

filed by the 1st respondent against the Editor and Staff Correspondent of Blitz, in a Jabalpur Court), when there was occasion for proving these charges, Shri Baghel backed out. These are the only relevant statements in the last but one para of annexure-1. The petitioner P.W. 27 Dr. Khubchand Baghel does not clearly accept that he is a leader of the Praja Socialist Party. He styles himself as an humble worker of that Party. Petitioner's own witness P.W. 23 Vinayak Sakhararam Dandekar who has been a prominent political worker of long standing and who belongs to the same Party as the petitioner, states in his evidence that the petitioner, was leader of the K.M.P.P. (Kishan Mazdoor Praja Party). He further says that Dr. Baghel was M.L.A. on the P.S.P. ticket. Dr. Baghel was also a delegate of the Betul Convention of the Party which took place in 1953. The evidence of this witness Vinayak Sakhararam Dandekar would show that the merger of the Socialist Party and K.M.P.P. took place in Bombay in April 1953 with the result that the Praja Socialist Party was created by the merger. The 1st convention of the Praja Socialist Party took place at Betul in about June 1953. The petitioner was a delegate at this Betul Convention. The petitioner has admitted that he is a prominent political worker since 1931. Originally he was in the Congress Party. He joined the K.M.P.P. in 1951, when it was first formed under the leadership of Acharya Kripalani. In 1953 K.M.P.P. and Socialist Party merged into one party called Praja Socialist Party. The petitioner admits that he, therefore, became a member of the P.S.P. The petitioner also admits that the K.M.P.P. and the P.S.P. were opposed to the Congress Party. He as member of these parties opposed the Congress Party. Late P. Ravishanker Shukla the father of 1st respondent, was Chief Minister of Madhya Pradesh, and the leader of the Madhya Pradesh Congress Party. He was Chief Minister of Madhya Pradesh from 1946 till his death which took place on 31st December, 1956. The petitioner admits that he was Parliamentary Secretary in the Cabinet of Pt. Ravishanker Shukla in 1946-47 in-charge of Medical Department. Dr. Hasan was the Minister-in-charge of Medical Department. Dr. Hasan resigned from the Ministership in 1947 and the petitioner subsequently also resigned though he does not admit that he resigned in sympathy with Dr. Hasan. It is very likely that he did so because he and Dr. Hasan are from the same political party. The petitioner admits that he was a delegate in the Betul Convention of the Praja Socialist Party. The evidence of R.W. 7 Brijvallabh who has spoken of the Betul Convention of the P.S.P. and who was also a P.S.P. worker, is that the petitioner was a prominent leader of the Mahakoshal area in the Betul Convention. This witness is the brother of Indradutta Shukla who was President of the Reception Committee of the Betul Convention of the Praja Socialist Party which took place in 1953.

51. The 1st respondent Vidyacharan Shukla has stated in para 6 of his evidence that the petitioner Dr. Baghel was initially in the Indian National Congress. At that time from 1946 to 1948 he was Parliamentary Secretary in the Medical Department which was in-charge of Dr. Hasan the Minister of the Department. Late Pt. Ravishanker Shukla, the father of the 1st respondent, was then the Chief Minister of Madhya Pradesh. The witness deposes that Dr. Hasan resigned due to differences with late Pt. Ravishanker Shukla and after sometime Khubchand Baghel the petitioner also resigned. Dr. Baghel then became member of the K.M.P.P. and subsequently of the P.S.P. when K.M.P.P. and Socialist parties merged to form Praja Socialist Party. The witness states that Dr. Baghel after leaving the Congress Party used to make all kinds of personal allegations against the late Pt. Ravishanker Shukla and he also published certain pamphlets making personal allegations against late Pt. Ravishanker Shukla. The petitioner has admitted in his evidence that he was in the political camp opposite to the Congress camp led by Pt. Ravishanker Shukla. This was for quite a long time after 1948. The petitioner also admits that there was a no confidence motion by the Praja Socialist Party against the ministry of late Pt. Ravishanker Shukla. He had subscribed to this no confidence motion and he had also given a speech on the floor of the Assembly in support of the no confidence motion. The witness conveniently forgets whether he had made any personal allegation against late Pt. Ravishanker Shukla in that no confidence motion. There is a suggestion in the cross-examination that the petitioner had levelled personal allegations against late Pt. Ravishanker Shukla in the no confidence motion.

52. The 1st respondent during the cross-examination of the petitioner on 15th November 1962 sought to file a printed pamphlet with the heading "PANDIT RAVISHANKER SHUKLA JAVAB DEN". The document was not admitted as the petitioner did not accept the pamphlet. The pamphlet makes personal allegations against late Pt. Ravishanker Shukla and it purports to be under the signatures of the petitioner and other P.S.P. leaders. In cross-examination the petitioner in para 14, however, admitted that many days ago he had published a pamphlet with this heading "PANDIT RAVISHANKER SHUKLA JAVAB DEN".

When the pamphlet was shown to the petitioner he replied that he could not state from memory whether such a pamphlet was got published by him. His reason was that due to lapse of time he could not remember this. The witness is obviously trying to suppress that such a pamphlet was issued by him. I am not in fact using the contents of the pamphlet as the pamphlet was not admitted on record. When I am trying to show is that the petitioner, who was a prominent leader of the P.S.P. was bitterly opposed to the Congress Party and its leader Pt. Ravishanker Shukla. He has admitted that he issued a printed pamphlet "PANDIT RAVISHANKER SHUKLA JAVA B DEN" against the late Pt. Ravishanker Shukla. He had contributed to the no confidence motion sponsored by the Praja Socialist Party against the Ministry of Pt. Ravishanker Shukla and he had delivered a speech presumably making personal allegations against late Pt. Ravishanker Shukla.

53. The petitioner has admitted in his petition that Blitz of Bombay had published in its issue dated 20th July 1957 certain allegations against late Pt. Ravishanker Shukla and they were reported to have been made by the Socialist leader Dr. Ram Manohar Lohia and by another leader Dr. Hasan. The associations of the petitioner Dr. Khubchand Baghel with his own partymen Dr. Ram Manohar Lohia and Dr. Hasan can be presumed. All these leaders belonged to the same party P.S.P. The Blitz also published an unconditional apology in its issue dated 26th January 1962. This issue of the Blitz has been filed as a document (Ex. A-4) by the petitioner and the apology is published at page 16. With the background of the above evidence any reasonable man would be led to believe that the petitioner had made and was in the habit of making personal allegations against late Pt. Ravishanker Shukla. The 1st respondent also stated in his evidence that he was led to believe from the above facts and circumstances, that the petitioner had made personal false allegations against his father late Pt. Ravishanker Shukla.

54. The objectionable statements in the last but one para of annexure-1 would, therefore, on the basis of evidence and circumstances, would appear to be true. The petitioner Dr. Khubchand Baghel had made personal and presumably false allegations against late Pt. Ravishanker Shukla from time to time. Similar allegations made by Dr. Ram Manohar Lohia and Dr. Hasan, political associates of the petitioner were published in the Blitz and the Blitz subsequently apologised for publishing these allegations. Even if the petitioner was not responsible for publishing those allegations in the Blitz, any reasonable man would be led to believe that the petitioner had some hand in the publications of those allegations in the Blitz. The objectionable statements in the last but one para of annexure-1 have not, therefore, been proved to be false. They would appear to be true or substantially true. At any rate any reasonable man including the 1st respondent would believe that those statements were true and they were not false.

55. Another objectionable statement in the last but one para is that during the proceedings of the suit for damages for defamation, the petitioner backed out when it came to proof of the alleged false allegations. It is not disputed that the 1st respondent and his brothers had filed a suit for damages for defamation against the Editor and Staff Correspondent of the Blitz, in a Jabalpur Court. The suit was No. 12-A of 58 of the Court of First Civil Judge, Class I, Jabalpur. Ex. A-6 is the copy of judgment of that suit. The 1st respondent has admitted in his evidence that the petitioner was not a party to that suit. The question of petitioner's backing out from proof, in that suit, therefore, does not arise. The statement that the petitioner backed out when occasion came for proving the allegations in the suit, is, therefore, an incorrect statement. The 1st respondent has also not given any explanation how that statement was made or how anybody could have believed this statement to be true. This statement though it is a wrong and incorrect statement, is nevertheless not against the personal character or conduct of the petitioner. Though a host of witnesses were examined by the petitioner regarding the distribution of the pamphlet annexure-1 and the statements contained in it, none has stated that he considered this particular statement as against the personal character or conduct of the petitioner. The learned counsel for the petitioner has also not in his argument said anything regarding this particular statement.

56. The statements contained in the last para of the pamphlet annexure-1 are really the foundation of the charge of the petitioner against the 1st respondent. The statements are that the petitioner Dr. Khubchand Baghel was President of the Reception Committee of the Betul Convention of the Praja Socialist Party. It is further stated that a sum of Rs. 18,000/- had been collected by the Betul Conference and that the petitioner did not render accounts of this sum inspite of repeated demands by the Reception Committee. Finally it is stated "Where is the money gone?" The petitioner has stated that he was not Chairman of the Reception

Committee of the Betul Convention of the P.S.P. That is also the evidence of P.W. 23 Vinayak Sakharam Dandekar. R.W. 7 Brijvallabh Shukla's evidence is that his brother Intradutta Shukla was the Chairman of the Reception Committee of that Betul Convention of P.S.P. That is also the evidence of the petitioner and P.W. 23 Vinayak Sakharam Dandekar. The statement that the petitioner was Chairman of the Reception Committee is, therefore, an incorrect and false statement. This statement is, however, innocent. It is not at all against the personal character or conduct of the petitioner. It is only the subsequent statement which is considered to be objectionable.

57. The subsequent statement in the last para of annexure-1 is that Rs. 16,000/- was collected as subscription for the Betul Conference and its account is not rendered by the petitioner Dr. Khubchand Baghel to the Reception Committee inspite of repeated demands. A further rider is added to the effect as to where the money is gone? I have now to consider whether this statement is false and whether the 1st respondent believed it to be false or did not believe it to be true. The petitioner has stated in his evidence that he was not at all responsible for collection of any money of the Betul Conference and that he was not at all responsible for rendering any accounts. I have, therefore, to find out whether the 1st respondent has led any evidence or there are circumstances to show that this statement is not false or that the 1st respondent did not believe it to be false but believed it to be true. The 1st respondent does not appear to have any personal knowledge about this Betul Conference, as would appear from his evidence. The relevant evidence would be available in the evidence of the petitioner P.W. 27 Dr. Khubchand Baghel, P.W. 23 Vinayak Sakharam Dandekar and R.W. 7 Brijvallabh. It has already been proved, as stated earlier, that the petitioner Dr. Khubchand Baghel was a prominent member and leader of the Praja Socialist Party of Mahakoshal. R.W. 7 Brijvallabh deposes that he was a worker and a member of the P.S.P. from 1952-53 till 1958. He says that there were two conferences of the P.S.P. at Betul. The 1st was in 1952-53 and the second was in 1955. The petitioner has also admitted in para 15 of his evidence that there used to be conferences and conventions of the K.M.P.P. and later on of the P.S.P. As R.W. 7 Brijvallabh, was a member and worker of the P.S.P. for some years, his evidence regarding the Betul Conference or Convention of P.S.P. would deserve some respect. His brother Intradutta Shukla was the Chairman of the Reception Committee of the Betul Conference or Convention of P.S.P. of 1953. The witness says that petitioner Dr. Khubchand Baghel of Raipur, Thakur Niranjan Singh of Narsinghpur, Maganlal Bagdi and Vinayak Sakharam Dandekar were the prominent P.S.P. leaders in that Conference. He says that the petitioner, Vinayak Sakharam Dandekar and Maganlal Bagdi were prominent persons in the Reception Committee. The petitioner states that Vinayak Sakharam Dandekar was on the Reception Committee though Vinayak Sakharam Dandekar conveniently denies this. The petitioner as well as Vinayak Sakharam Dandekar admit that Maganlal Bagdi was on the Reception Committee. The petitioner denies that he was on the Reception Committee or he had anything to do with it. Vinayak Sakharam Dandekar states in para 4 of his evidence that the *ad hoc* committee of Madhya Pradesh formed the reception committee for the Betul Convention. Dr. Khubchand Baghel was a prominent P.S.P. leader of Madhya Pradesh.

58. It is interesting to read the evidence of P.W. 23 Vinayak Sakharam Dandekar and the petitioner Dr. Khubchand Baghel in this respect. Dandekar an important P.S.P. leader deposes that he does not know what was the procedure for being a member of Reception Committee. He does not know whether money was paid for becoming member of Reception Committee. He does not know how much was collected by the Reception Committee. He cannot say whether leaders were collecting funds for the Conference. These obvious facts should have been known to a person holding a prominent position in the P.S.P. leadership. I feel that the witness is trying to suppress facts which he should have known.

59. The petitioner cannot say if any person of Chhattisgarh was on the Reception Committee. He, however, admits that Vinayak Sakharam Dandekar was on the Reception Committee, a fact denied by Vinayak Sakharam Dandekar. The witness cannot say in what manner funds were collected. He does not know if the source of income was membership fee and public collection. The witness even does not remember whether he was on the Executive of P.S.P. of Betul Conference. He says that this is a matter of record. The facts about which the witness claims that he does not know or does not remember, should have obviously been known to a leader of his standing of the P.S.P. I am confident that the witness is also trying to suppress facts about which he should have known. It is in the light of these suppression of facts by these two prominent P.S.P. leaders P.W. 23 Vinayak Sakharam Dandekar and the petitioner, that I will evaluate the evidence of R.W. 7

Brijvallabh. I have already said that Brijvallabh's evidence deserves respect. It clearly appears that Maganlal Bagdi and Vinayak Sakharam Dandekar were members of the Reception Committee of Betul Conference. Brijvallabh deposes that besides these two persons the petitioner Dr. Khubchand Baghel was also a prominent person in the Reception Committee. I accept the evidence of Brijvallabh on this point. Brijvallabh deposes that about 4000 to 5000 members of P.S.P. attended the Betul Conference. There were sub-committees of the Reception Committee. That there were sub-committees of the Reception Committee has also been admitted by P.W. 23 Vinayak Sakharam Dandekar. The witness was in the food arrangement sub-committee. He says that all the members who attended were fed. In cross-examination the witness has stated that a fee of Rs. 15/- was taken for enrolling members of the Reception Committee. It is a well known fact that the expenses of such political conferences are met by subscription and membership fees. The Betul Conference was an all India conference. It was the first conference after the merger of the K.M.P.P. and Socialist Party of India. Therefore, considerable number of persons must have attended. The figure of about 4000 to 5000 persons given by R.W. 7 Brijvallabh is likely to be correct. According to the witness the conference was held for 4 or 5 days. The persons who attended the conference were lodged and fed. It is admitted by the petitioner and also by Vinayak Sakharam Dandekar that money was collected by the Reception Committee and that it must have been spent. They only state that they do not know in what manner the money was collected, a fact about which they should have known and deposed.

60. R.W. 7 Brijvallabh further deposes that Dr. Khubchand Baghel, the petitioner, who was a prominent member of the Reception Committee might have kept accounts. He says that no account was published and there was, therefore, criticism of the partymen that accounts were not published. The petitioner Dr. Khubchand Baghel and Vinayak Sakharam Dandekar do not know or do not remember whether accounts were published, a fact they should have known being prominent P.S.P. leaders. From the evidence it therefore appears to be very likely that the petitioner Dr. Khubchand Baghel was prominently associated with the Reception Committee of the Betul Conference. The evidence further discloses that considerable money must have been collected to lodge and feed about 4,000 or 5,000 persons who attended the Betul Conference. The evidence also discloses that most likely the accounts of the money was not published, probably because it was not rendered. This evidence and the calculated denials of obvious facts by the petitioner and Vinayak Sakharam Dandekar, would lead to the inference that the petitioner who was prominently associated with the Reception Committee of the Betul Conference was associated with the funds of the conference and further that he did not render accounts of the funds. At any rate the above evidence and circumstances would lead a reasonable man to believe that the petitioner was associated with the Reception Committee and that he did not render accounts of the funds which were collected for the Betul Conference.

61. After all the statement is only that Rs. 16,000 which was collected by subscription for Betul Conference, was not accounted for by the petitioner and the rider is what has happened to the money? There is absolutely no doubt that Rs. 16,000 or an equivalent sum must have been collected. After all money was needed to lodge and feed nearly 4,000 persons for 4 or 5 days. To meet all this a considerable sum, near about 16,000 or even more, must have been necessary. That this amount was collected by subscription is also obvious as would appear from the evidence of R.W. 7 Brijvallabh. This obvious fact is conveniently denied or not remembered by the petitioner and his interested witness Vinayak Sakharam Dandekar. The statement that Rs. 16,000 was collected by subscription for the Betul Conference is, therefore, correct. The further statement that Dr. Khubchand Baghel, the petitioner, did not render accounts of this sum to the Reception Committee inspite of demands also appears to be correct or at any rate a reasonable man would under the circumstances would believe it to be true and correct.

62. A number of witnesses who were examined by the petitioner with respect to the objectionable statements contained in annexure-1 have stated that according to their opinion based on reading the pamphlet, Dr. Khubchand Baghel misappropriated the sum of Rs. 16,000. The statement is obviously not to this effect. The statement is merely that Dr. Khubchand Baghel the petitioner did not render accounts of the sum of Rs. 16,000 inspite of demands and there is a rider saying as to what happened to the money. From the evidence discussed earlier it would appear that the expenditure involved must have been near about Rs. 16,000 as nearly 4,000 persons were required to be lodged and fed. Though the witnesses have read in the statement about dishonesty by Dr. Khubchand Baghel, the

petitioner, the statement on plain reading would not suggest this. It merely says that account of Rs. 16,000 was not rendered. I have already said that near about this sum must have been spent and, therefore, most probably there was no misappropriation or defalcation of any money by anybody and consequently there could not be any dishonesty by anybody including the petitioner. In the context of evidence and circumstances the statement merely means and suggests that statement of account of Rs. 16,000 was not rendered by the petitioner and, therefore, there was a doubt as to what happened to the money though in fact the whole sum of Rs. 16,000 must have been spent. In my opinion, therefore, the objectionable statements in the last para of annexure-1 have not, therefore, been proved to be false. On the contrary they would appear to be true or substantially true. At any rate any reasonable man including the 1st respondent would have believed that these statements were true and they were not false. The finding on issue No. I(e) would, therefore, be that the objectionable statements have not been proved to be false, but on the contrary they were possibly true statements or at any rate they were statements which were believed to be true and not false.

63. I will now discuss issue No. I(d) which is on the point whether the objectionable statements are against personal character and conduct of the petitioner. The pamphlet annexure-1 has to be read as a whole in order to judge the import of the objectionable statements. The heading is directed against the Party and the Hut symbol of the Party. The next line under the heading is also directed against the party. The 1st para mentions that the public should know about the P.S.P. and its selfish and hypocrite leadership. It further mentions that because of such leaders, the founder of the Party Acharya Kripalani left it. The next para starts by saying that the party is synonymous with opportunism. It mentions that one Gond leader Budhan Shah was given a party ticket for Pithora Assembly Seat, but when the zamindar of Pithora, a rich man was found, the ticket was given to him without caring for principles. It is further mentioned that when the party did not find any candidate for Saraiipali Assembly Seat one Congress leader Ramrattan Kashyap was fraudulently persuaded to leave the party and was given the ticket. When Ramrattan Kashyap knew the internal condition of the P.S.P. and its leaders he left the party and publicly declared that Congress was the only organisation which could benefit the masses. The third para mentions that behind the symbol of hut rich people are asking for votes for the Praja Socialist Party. Pannalal businessman and Seth of Nawapara was fighting election from Rajim Constituency on P.S.P. ticket. From Raigarh Constituency Seth Ramkumar Agarwal was the P.S.P. candidate. From Pithora Constituency the Zamindar of Kaudia was the P.S.P. candidate. The paragraph further mentions that P.S.P. consist of a body of leaders who have changed caps (*topi badal natayon ka jamat hai*). It goes on to mention that the leaders have no principles and no party. They have copied the principles of Congress and borrowed some from the Communist Party. Leaders who have been turned out from other parties are members of this hollow party. Paras. 1, 2 and 3 are, therefore, primarily and absolutely confined to the P.S.P. party and its leaders ridiculing and criticising the party and its leadership.

64. Para 4 starts by saying that the principles of Dr. Khubchand Baghel a Raipur leader of the P.S.P. a body of turned caps (*topi badal*) should be seen. It further mentions that late Pt. Ravishanker Shukla a great leader of Chhattisgarh and Madhya Pradesh brought this leader Dr. Khubchand Baghel into political field. Thereafter follows the objectionable statement. In the objectionable statement also the petitioner Dr. Khubchand Baghel has been addressed as a leader. At the end of the objectionable statement it has been stated that the political existence of Dr. Khubchand Baghel is based on groundless things. By reading the objectionable statements in the fourth para, which is the last but one para, in context of the expressions and statements in the previous three paras and also in this para, one would naturally infer that there was no statement against the personal character or conduct of the petitioner Dr. Khubchand Baghel. The inference would obviously be that the objectionable statements are directed against the public and political leadership of the petitioner.

65. The last para starts by mentioning that the P.S.P. Chief Minister Pattam Thanu Pillai of Kerala resorted to firing on the public and in opposition to this Dr. Lohia and Jaiprakash Narayan left the hut symbol party, that is P.S.P. It further states that the petitioner Dr. Khubchand Baghel in the Nagpur Conference publicly supported the firing and suppression which was done by Pattam Thanu Pillai, the Chief Minister of Kerala. All the above mentioned statements are directed against the political aspect of the P.S.P. and its leaders. Thereafter follows the objectionable statements in the last para. At the end of the para it has been mentioned that the public could decide how such imitation leaders (*daldai nata*) could benefit the party or the constituency. In context of the

expressions and statements made in the previous and this para which are primarily directed against the party and its leadership and their criticism, the inference would be that the objectionable statements in the last past would concern the political and public conduct of the petitioner and not his personal conduct or character. I have already also said earlier that the statements in the last para are not suggestive of dishonesty, in the context of evidence and circumstances which I have discussed. They are suggestive merely of the fact which appears to be true that statement of account of Rs. 16,000 was not rendered by the petitioner.

66. In 15 E.L.R. 284: *Kanhailalal Tiwari v. Shyam Sunder Narayan Mushran*, of the Madhya Pradesh High Court, it has been held that to constitute corrupt practice under section 123(4) of the Act the false statement that is published, must be a statement relating to personal character or conduct of the candidate and not his political character or conduct. There is a great distinction between a false statement of fact which affects the personal character or conduct of a candidate and a false statement of fact which deals with the political position or reputation or action of the candidate. At page 288 the relevant observations are:

"It is not an offence to say something which may be severe about another person, nor which may be unjustifiable, nor which may be derogatory, unless it amounts to a false statement of fact in relation to the personal character or conduct of such candidate .....

In 17 E.L.R. 373: *Sudhir Laxman Hendre v. S. A. Dange and others*, their Lordships of the Bombay High Court have held that to bring a case under the mischief of section 123(4) of the Act, there must be a false statement of fact by a candidate in relation to personal character or conduct of the other candidate. Adverse criticism however severe, however undignified or ill-mannered, however regrettable in relation to political views, position or reputation or action, would not bring the case within the mischief of this section.

67. In the case reported in 20 E.L.R. 275: *Sarla Devi Pathak v. Birendra Singh and others*, their Lordships of the Madhya Pradesh High Court quoted the observations of Darling, J., of the Cockermouth Division case. The relevant observations at page 293 may be reproduced below:

"What the Act forbids is this: You shall not make or publish any false statement of fact in relation to the personal character or conduct of such candidate; if you do, it is an illegal practice. It is not an offence to say something which may be severe about another person, nor which may be unjustifiable, nor which may be derogatory, unless it amounts to a false statement of fact in relation to the personal character or conduct of such candidate; and I think the Act says that there is a great distinction to be drawn between a false statement of fact which affects the personal character or conduct of a candidate and a false statement of fact which deals with the political position or reputation or action of the candidate. If that were not kept in mind, this statute would simply have prohibited at election times all sorts of criticism which was not strictly true relating to the political behaviour and opinions of the candidate. That is why it carefully provides that the false statement, in order to be an illegal practice, must relate to the personal character and personal conduct."

This point came up for decision before their Lordships of the Supreme Court in the case reported in A.I.R. 1962 Supreme Court, 1156: *Inder Lal v. Lal Singh and others*. The principles have been laid down in para 13 which I will reproduce below:

"Though it is clear that the statute wants to make a broad distinction between public and political character on the one hand and private character on the other, it is obvious that a sharp and clear-cut dividing line cannot be drawn to distinguish the one from the other. In discussing the distinction between the private character and the public character, sometimes reference is made to the "man beneath the politician" and it is said that if a statement of facts affects the man beneath the politician it touches the private character and if it affects the politician, it does not touch his private character. There may be some false statements of fact which clearly affect the private character of the candidate. If, for instance, it is said that the candidate is a cheat or murderer there can be no doubt that the statement is in regard to his private character and conduct and so if the statement is shown to be false, it would undoubtedly be a corrupt practice. Similarly, if the economic policy of the party to which the candidate

belongs or its political ideology is falsely criticised and in strong words it is suggested that the said policy and ideology would cause the ruin of the country, that clearly would be criticism, though false, against the public character of the candidate and his political party and as such, it would be outside the purview of the statute. But there may be cases on the borderline where the false statement may affect both the politician and the man beneath the politician and it is precisely in dealing with cases on this border-line that difficulties are experienced in determining whether the impugned false statement constitutes a corrupt practice or not. If, for instance, it is said that in his public life, the candidate has utilised his position for the selfish purpose of securing jobs for his relations, it may be argued that it is criticism against the candidate in his public character and it may also be suggested that it nevertheless affects his private character. Therefore, it is clear that in dealing with corrupt practices alleged under section 123(4) where we are concerned with border-line cases, we will have to draw a working line to distinguish private character from public character and it may also have to be borne in mind that in some cases, the false statement may affect both the private and the public character as well."

68. Keeping in view the principles of decided cases and particularly the dictum laid down by the Supreme Court, I am of the opinion that the document annexure-1 is primarily and wholly directed against Praja Socialist Party and its leadership. There is adverse criticism of the P.S.P. and its leaders including Dr. Khubchand Baghel, the petitioner. In the context of the tenor and refrain of the whole document and the words and expressions used in all the paras, the alleged objectionable statements are not in my opinion against the personal character and conduct of the petitioner Dr. Khubchand Baghel. They are against his political and public character and activities. The reference is to the politician and public worker Dr. Khubchand Baghel and not the man beneath the politician. My finding on issue No. I(d) is, therefore, that the objectionable statements in the last and the last but one para of annexure-1 are not against personal character or conduct of the petitioner.

69. To bring the case within the mischief of section 123(4) of the Act it has further to be proved whether the objectionable statements are reasonably calculated to prejudice the prospects of the election of the petitioner. The alleged objectionable statements in the last but one para of annexure-1 cannot be said to be reasonably calculated to prejudice the prospects of election of the petitioner, even assuming that the statements are false and further assuming that the statements are against the personal character and conduct of the petitioner. I have already held that these statements are not false and I have further held that these statements cannot be said to be against the personal character and conduct of the petitioner. Out of the number of witnesses examined by the petitioner regarding the effect on their minds of these statements, only one witness has said that these statements in the last but one para are derogatory to the petitioner. Other witnesses have not said anything about them. The alleged objectionable statements in the last para of annexure-1 assuming that these statements are false and further assuming that they are against the personal character and conduct of the petitioner, also further assuming that they suggest dishonesty, would only then be reasonably calculated to prejudice the prospects of the election of the petitioner, and not otherwise. I have already held that these statements in the last para are not false and I have further held that these statements are not against the personal character and conduct of the petitioner and I have further held that they are not suggestive of any dishonesty. Most of the petitioner's witnesses, who were examined with respect to the impressions on them of the statements in the last para of annexure-1, have wrongly stated that they understood the statements to mean that the petitioner misappropriated Rs. 16,000. The statements have been misunderstood by most of the witnesses. Only a couple of witnesses have correctly said that they understood the statements only to mean that the petitioner failed to render accounts. The finding on issue No. I(f) does not in fact arise for decision in view of the findings on issue No. I(d) and I(e). However my finding is that the alleged objectionable statements in the last para only, would be reasonably calculated to prejudice the prospects of election of the petitioner provided the statements are false, and are directed against the personal character and conduct of the petitioner and are suggestive of dishonesty, and not otherwise.

70. *Issue No. II(a) and (b).*—In view of my findings on issue I(d) and (e) the finding on issue No. II(a) would be that the 1st respondent or his agents and workers did not commit corrupt practice under section 123(4) of the Act. The

finding on issue No II(b) would, therefore, be that the election of respondent No 1 cannot be declared void

71 *Issue No V*—In the result the election petition fails and it is hereby dismissed with cost. The petitioner will bear his cost and he will pay the cost of contesting respondent No 1. Respondents 2, 3 and 4 who have remained absent and were placed *ex parte*, did not incur any cost. It is not, therefore, necessary to make any direction regarding the cost of respondents No 2, 3 and 4. Counsel's fee Rs 500 is certified.

Sd/- G P TIWARI,  
Member,

Election Tribunal, Rajnandgaon.  
5-1-1963

SCHEDULE OF COSTS

| Particulars                            | Appellant   |    | Respondent |     |
|--|-------------|----|------------|-----|
|  | Rs          | nP | Rs.        | nP. |
| 1 Stamp for application etc            | 1           | 00 | 1          | 00  |
| 2 Stamp for power                      | 5           | 00 | 4          | 00  |
| 3 Service of processes                 | 51          | 00 | 40         | 25  |
| D. M. & T. E.                          | 293         | 80 | 395        | 01  |
| 4 Pleader's fee as certified & allowed | 250         | 00 | 500        | 00  |
| 5 Other costs—                         |             |    |            |     |
| (i) Exhibits                           | 22          | 22 |            |     |
| (ii) Writing charges                   |             |    |            |     |
| (iii) Misc application                 | 8           | 00 | 7          | 00  |
| Total                                  | 631         | 02 | 947        | 26  |
| Grand Total                            | Rs. 1578 28 |    |            |     |

True Copy

Sd/- G P TIWARI,  
Member,  
Election Tribunal, Rajnandgaon  
18-1-1963

Sd/- G P TIWARI,  
Member,  
Election Tribunal, Rajnandgaon.  
5-1-1963

By order,  
[No 82/258/62]  
K S RAJAGOPALAN, Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 30th January 1963

S.O. 326.—In exercise of the powers conferred by Section 44 of the Arms Act, 1959 (54 of 1959) and all other powers enabling it in this behalf, the Central Government hereby makes the following rules further to amend the Arms Rules, 1962 (published with the notification of the Government of India in the Ministry of Home Affairs No G S R 987, dated the 13th July, 1962), namely:

1 These rules may be called the Arms (Amendment) Rules, 1963

2. In the Arms Rules, 1962,

(a) in Schedule II, item No. 9,

for the existing entries under columns 3 to 8, the following entries shall be substituted, namely:—

| Col. 3    | Col. 4               | Col. 5  | Col. 6  | Col. 7                           | Col. 8 |
|-----------|----------------------|---|---|----------------------------------|--------|
| '(a) All  | (a) Throughout India | (a) Central Government  | Within the premises to be specified in the licence. | (a) State Government.            | IX     |
| (b) V, VI | (b) Throughout India | (b) District Magistrate or any other officer specially empowered in this behalf by the State Government/Administrator of Union territory. | Within the premises to be specified in the licence. | (b) Same as licensing authority. | IX     |

(b) in Schedule II, item No. 10, for the existing entry, the entry

"I(b), I(c), I(d), III(a), III(b), III(c), III(d), V, VI"

shall be substituted.

[No. F. 15/5/62-P.IV.]

K. CHATTERJEE, Under Secy.

*New Delhi, the 2nd February 1963*

**S.O. 327.**—In exercise of the powers conferred by clause (1) of article 239 of the Constitution and all other powers enabling him in that behalf, the President hereby makes the following amendment in the Ministry of Home Affairs notification No. F. 22/11/59-ANL dated the 2nd January 1960, namely:—

In the said notification, for the entry "(c) the Principal Engineering Officer; or", the entry "(c) the Principal Engineer, Andaman & Nicobar Islands; or" shall be substituted.

This amendment shall be deemed to have come into force on the 11th January, 1963.

[No. 4/60/61-AN.]

M. B. MALHOTRA, Under Secy.

*New Delhi, the 2nd February 1963*

**S.O. 328.**—In exercise of the powers conferred by clause (I) of article 299 of the Constitution, the President hereby directs that the following instruments made in the exercise of the executive power of the Union may be executed on his behalf by the Commandant, Central Internment Camp, Deoli (Rajasthan) namely:—

"All contracts and/or instruments relating to purchase, supply and conveyance, or carriage of rations and other articles of food and fuel for internees in the Central Internment Camp, Deoli (Rajasthan)".

[No. 1/7/63-Intt.]

T. K. RAMAKRISHNAN, Under Secy.

New Delhi, the 4th February 1963

S.O. 329.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby directs that the Administrator, Laccadive, Minicoy and Amindivi Islands, shall exercise the power to make rules in regard to the method of recruitment to the Central Civil Services and Posts, Class III and Class IV, under his administrative control.

[No. 2/7/63-JMA].

BISHAN CHANDRA, Under Secy.

**MINISTRY OF FINANCE**

**(Department of Expenditure)**

New Delhi, the 28th January 1963

S.O. 330.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President hereby makes the following rules to amend the Delegation of Financial Powers Rules 1958, namely:—

1. These rules may be called the Delegation of Financial Powers Amendment Rules, 1963.

2. In the Delegation of Financial Powers, Rules, 1958:

(1) after rule 10-A, the following rules shall be inserted namely:—

“10-B. *Insurance of Government property.*—Government property, both movable and immovable, shall not be insured. No subordinate authority shall, therefore, undertake any liability or incur any expenditure in connection with the insurance of such property without the prior consent of the Finance Ministry except in the cases mentioned below:—

- (a) Departments of the Central Government shall be competent to incur expenditure on the insurance of materials and equipments received on loan or as aid from International or other organisations if, according to the terms of contracts or agreements entered into with the organisations concerned, insurance of such materials or equipments is necessary;
- (b) Where for booking of goods by railway, an alternative railway risk rate is provided, additional charges above those prescribed for booking of goods at owners' risk being in the nature of insurance charges, Departments of the Central Government shall be competent to incur such additional expenditure upto Rs. 250 in each case for booking goods at railway risk.

Note.—(1) In cases, where there is only one set of rates for carriage of goods by rail and there are no alternative owners' risk rates, such charges are treated as freight charges under serial number 7(1) of Annexure to Schedule V of these rules and regulated accordingly.

- (2) In cases, where it is decided to insure properties or goods under the direct or indirect control of the Central Government, the Departments of the Central Government concerned shall follow the procedure that may be laid down by the Finance Ministry from time to time.”

“10-C. *Delegation of power to incur expenditure.*—Subject to the provisions of rule 142 of the Treasury Rules, a Head of Office shall have power to authorise a gazetted officer serving under him to incur contingent and miscellaneous expenditure on his behalf. The Head of office shall, however, continue to be responsible for the correctness, regularity and propriety of the expenditure incurred by the gazetted officer so authorised.”

“10-D. *Remission of disallowances by Audit and writing off of overpayments made to Government servants.*—(1) Subject to the restrictions mentioned in sub-rule (2), a Department of the Central Government,

an Administrator and any other subordinate authority, to whom powers may be delegated by or under special orders of the President, may waive the recovery of an amount disallowed by an Audit Officer or the Accounts Officer, or otherwise found to have been overpaid to a Government servant, subject to the following conditions:—

- (i) The amount disallowed has been drawn by the Government servant concerned under a reasonable belief that he was entitled to it; and
- (ii) if, in the opinion of the aforesaid authority,
  - (a) recovery will cause undue hardship, or
  - (b) recovery is impossible.
- (2) The aforesaid authorities shall not have the power to waive recovery:
  - (i) of emoluments of the nature of pay, as defined in F.R. 9(21), where the overdrawal has been occasioned by delay in notifying promotion or reversion, or where such overdrawal has been disallowed by the Audit Officer or Accounts Officer after one year of the date of payment;
  - (ii) where the recovery relates to a gazetted Government servant; or
  - (iii) where the amount involved does not exceed two months' pay of the Government servant concerned.

Note.—The powers of Audit Officers and Accounts Officers to waive objections to or to forgo recovery of irregular expenditure in individual cases shall be such as may be laid down separately under general or special orders of the Central Government issued from time to time."

(II) in Schedule I.—

- (a) under the heading "F-Ministry of Food and Agriculture", under the sub-heading, "(Department of Agriculture)", after item 23 and the entry relating thereto, the following shall be inserted and be deemed to have been inserted with effect from the 14th September, 1962, namely:—

"24. Director, Tractor Training and Testing Station, Budni."

- (b) under the heading 'I-Ministry of Home Affairs' after item number 10 and the entry relating thereto, the following shall be inserted, and be deemed to have been inserted from the 13th December, 1962, namely:—

"11. Director General, Directorate General of Civil Defence."

- (iii) in Schedule V, for the existing paragraphs (2) and (3) in column 4 against item 15(i) of the Annexure, the following paragraphs shall be substituted, and be deemed to have been substituted with effect from the 1st April, 1962, namely:—

"(2) Where service stamps are accepted in payment of telegrams despatched on public service, only those stamps should be used for the purpose. If any officer is compelled to send a telegram at a time when he is temporarily without service stamps he should pay for it in cash and the amount so paid may subsequently be drawn in a contingent bill. In such cases a certificate that the telegram was sent on State Service and that cash payment was unavoidable shall be attached to the sub-voucher concerned.

(3) Where cash payment is required to be made in payment of telegrams, the "Credit Account System" should, as far as possible be availed of for payment of telegram charges. If for any reason the "Credit Account System" cannot be availed of, the amounts paid in cash may be drawn in contingent bills.

Note.—Foreign State telegrams and inland telegrams bearing priority indications may be issued only by an authority empowered to do so under the rules issued by the Director General, Posts and Telegraphs.

## (Department of Economic Affairs)

New Delhi, the 2nd February 1963

**S.O. 331.**—In pursuance of clause (b) of sub-section (1) of section 21 of the State Bank of India Act, 1955 (23 of 1955), read with regulations 48 and 50 of the State Bank of India General Regulations, 1955, the Central Government, in consultation with the Reserve Bank of India, hereby nominates Shri Nayer Laiq Ahmad, Windsor House, Queen's Road, Bombay-1, as a member of the Bombay Local Board of the State Bank of India, in the vacancy caused by the appointment of Shri Purshottam Kanji as a director of the Central Board of the State Bank of India.

[No. F. 8/82/62-SB.]

**S.O. 332.**—In pursuance of clause (d) of sub-section (1) of section 19, read with clause (b) of sub-section (2) and sub-section (3) of section 25 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Shri Purushottam Kanji, Gilbert Building, Babulnath 2nd Cross Road, Bombay-7 as a director of the Central Board of the State Bank of India, in the vacancy caused by the resignation of Shri M. H. Hasham Premji.

[No. F. 8/82/62-SB.]

R. K. SESHADRI, Dy. Secy.

## (Department of Revenue)

## ESTATE DUTY

New Delhi, the 29th January 1963

**S.O. 333.**—The Central Government hereby renews the appointment of the undermentioned Valuers whose names were previously published in Part II, Section 3(ii) of the Gazette of India, dated the 16th January 1960 under S.O. 113 for a further period of three years with effect from 25th January, 1963:

| Sl.<br>No. | Name | Address |
|------------|------|---------|
|------------|------|---------|

*I—Engineers/Surveyors/Architects*

1 Shri Sowani, Y.S., B.E. (Civil), M.R.S.H. . 1678A, Rankala Road, Kolhapur City.

*II—Accountants*

1 Shri Menon, M.C., B.A., F.C.A., A.I.C.W.A. 17/10571, Broadway, Ernakulam-1.

*III—Specialist in Works of Art*

1 Shri Aiyappan, A., M.A., Ph.D. . . Prof. of Anthropology, Utkal University, Vani Vihar, Bhubaneswar.

*IV—Specialists in Agriculture and Farm Valuation*

1 Shri Ayyar, S. V. Duraiswami, B.A., B.Sc., Ag. No. 11, S. Ramaswami Road, R. S. Puram, Coimbatore-2.  
 2 Shri Pereira, L.G., M.A., B.L. . . Esville, Bonvent Road, Trivandrum.  
 3 Shri Ramanna, Vanapalli . . . Retired Tehsildar, Undi, West Godavari District. (Andhra Pradesh).  
 4 Shri Sastry, S.S., B.A., Retd. Tehsildar . Oruganti Gardens, Vizianagaram.  
 5 Shri Surat Singh, P.C.S. (Retd.) . . 787, Church Mission Road, Delhi.

2. The scale of charges for the remuneration of valuers appointed by the Central Government for valuing any property shall be as fixed below and no such valuer shall charge a fee at a scale higher than the scale so fixed.

*Scale of Charges*

On the first Rs. 50,000/- of the property so valued . . . . .  $\frac{1}{4}\%$  of the value.  
 On the next Rs. 1,00,000/- of the property so valued . . . . .  $\frac{1}{4}\%$  of the value.  
 On the balance of property so valued . . . . .  $1/8\%$  of the value.

[No. 1/F. No. 5/54/62-ED.]

*New Delhi, the 30th January 1963*

**S.O. 334.**—The Central Government hereby renews the appointment of the undermentioned Valuers whose names were previously published in Part II Section 3(l) of the Gazette of India, dated the 18th January 1960 under S.O. 114, for a further period of three years with effect from 12th January 1963:

| Sl.<br>No. | Name | Address — |
|------------|------|-----------|
|------------|------|-----------|

*I—Engineers/Surveyors/Architects*

1 Shri Desai Raajibhai B., B.E. (Civil), L.S.G.D. "Amidhara" Near Char Rasta, Maninagar, (Bom), A.M.I.E. (Ind.), M.R.S.H. Ahmedabad-8.  
 (Lond.)  
 2 Shri Joglekar, Y.S., B.E. (Civil) . . . . . Jalgaon, (E.K.)  
 3 Shri Pundlik, R.G., A.R.I.B.A., A.I.I.A. . . . 1931, Sadashiv, Madiwale Colony, Ejirao Road, Poona-2.  
 4 Shri Rao, D.H.R., B.E. (Civil), M.I.E. (Ind.) "MAYA" 40, "A" Beli Road, New Katra Allahabad.

*II—Accountants*

5 Shri Iyer Srinivasa S., M.A., F.C.A. . . . Thirunakkara, Kettayam-1, (S. India).

*III—Specialist in Jewellery, Precious Stones and Ornaments.*

1 M/s. Nathu Mall & Sons . . . . . Birhana Road, Kanpur.

2. The scale of charges for the remuneration of valuers appointed by the Central Government for valuing any property shall be as fixed below and no such valuer shall charge a fee at a scale higher than the scale so fixed.

*Scale of charges*

On the first Rs. 50,000/- of the property so valued . . . . .  $\frac{1}{4}\%$  of the value.  
 On the next Rs. 1,00,000/- of the property so valued . . . . .  $\frac{1}{4}\%$  of the value.  
 On the balance of property so valued . . . . .  $1/8\%$  of the value.

[No. 2/F. No. 5/54/62-E.D.]

T. R. VISWANATHAN, Dy. Secy.

*(Department of Revenue)**CUSTOMS**New Delhi, the 1st February 1963*

**S.O. 335.**—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Government hereby appoints:—

(I) the ports of Marmagao, Daman and Diu to be customs ports for the unloading of imported goods and the loading of export goods;  
 (II) the port of Betul to be a customs port only for the loading of mineral ores for export; and

(III) the airport of Dabolim to be a customs airport for the unloading of imported goods and loading of export goods.

[No. 63/F. No. 90/1/63-L.C.I.]

**S.O. 336.**—In exercise of the powers conferred by clause (d) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Government hereby appoints the following ports in the Union territory of Goa, Daman and Diu to be coastal ports for the carrying on of trade in coastal goods; namely:—

- (1) Chapora.
- (2) Talpona.
- (3) Betul.
- (4) Panjim.

[No. 64/F. No. 90/1/63-L.C.I.]

J. BANERJEE, Dy. Secy.

### CENTRAL BOARD OF REVENUE

#### CUSTOMS

*New Delhi, the 1st February 1963*

**S.O. 337.**—In exercise of the powers conferred by section 9 of the Customs Act, 1962, (52 of 1962), the Central Board of Revenue hereby declares the following place to be a warehousing station:—

Vasco-da-Gama.

[No. 65/F. No. 90/1/63-L.C.I.]

J. BANERJEE, Secy.

### MINISTRY OF MINES & FUEL

*New Delhi, the 29th January 1963*

**S.O. 338.**—Whereas in pursuance of the notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) S.O. 702 dated the 18th March, 1960 under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government acquired 998.80 acres of land in villages Balandia, Dera and Ghanta para, P.S. Colliery in the district of Dhenkanal;

Whereas S/Shri Darab Sahu and Hari Sahu, son of Kirtan Sahu of village Balandia, P.O. Dera, District Dhenkanal, (Orissa), the interested persons have under section 13 of the said Act furnished their claims for compensation payable for acquisition of their lands before the competent authority;

And, whereas, the amount of compensation payable to them under the said Act could not be paid due to a dispute as to the sufficiency of the amount of compensation and the title to receive it and also the apportionment thereof;

Now, therefore, in exercise of the power conferred under sub-section (2) of Section 14 of the said Act, the Central Government hereby constitutes a Tribunal consisting of Shri G. K. Mishra, Additional Judicial Session Judge, Ranchi and refers the dispute to the decision of the said Tribunal.

[No. F. C2-21(2)/60.]

*New Delhi, the 30th January 1963*

**S.O. 339.**—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

SCHEDULE

Deshergarh Block 'A'

(showing area notified for prospecting).

Drg. No. REV/153/61.

| Serial No. | Village                 | Thana    | Thana No. | District | Area | Remarks |
|------------|-------------------------|----------|-----------|----------|------|---------|
| 1          | Narsamunda              | Asansole | 5         | Burdawan | Part |         |
| 2          | Ismail                  | "        | 26        | "        | "    |         |
| 3          | Narisnghbandh           | "        | 27        | "        | Full |         |
| 4          | Santa                   | "        | 28        | "        | Part |         |
| 5          | Hirapur                 | "        | 29        | "        | Full |         |
| 6          | Banagram                | "        | 30        | "        | "    |         |
| 7          | Duhika                  | "        | 31        | "        | "    |         |
| 8          | Shyamdihi               | "        | 32        | "        | "    |         |
| 9          | Kalajhariya             | "        | 33        | "        | Part |         |
| 10         | Nabeghenad              | "        | 34        | "        | Full |         |
| 11         | Barathol                | "        | 35        | "        | Part |         |
| 12         | Chhotadigari            | "        | 53        | "        | "    |         |
| 13         | Baradigari              | "        | 54        | "        | "    |         |
| 14         | Shanmara                | "        | 55        | "        | Full |         |
| 15         | Lakrasatt               | "        | 56        | "        | "    |         |
| 16         | Purushottampur          | "        | 57        | "        | "    |         |
| 17         | Kailapur                | "        | 58        | "        | "    |         |
| 18         | Baidyanandapur          | "        | 59        | "        | "    |         |
| 19         | Patmohna                | "        | 60        | "        | "    |         |
| 20         | Aluthiye                | "        | 61        | "        | Part |         |
| 21         | Chaparadi               | "        | 67        | "        | "    |         |
| 22         | Asansole (Municipality) | "        | 24        | "        | "    |         |

Total—1221.20 Acres (Approx.).

*Boundary description:—*

- 1—2 line passes through the villages Chaparadi and Aluthiye.
- 2—3 line is the (Part) Common boundary of the villages Aluthiye and Bharatchak Common boundary of Patmohna and Bharatchak, Patmohna and Bejdihi, Hearelgara and Patmohna.
- 3—4 line passes through villages Baradigari, Chhotadigari, Santa Narsamuda and Asansol (Municipality).
- 4—5 line passes through villages Asansole (Municipality), Ismail, Brathol and Kalajhariya.
- 5—1 line is the Common boundary of District Burdwan and Bankura, Burdwan and Purulia.

The plan of the area covered by this notification can be inspected at the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi or at office of the Collector, Burdwan (West Bengal).

[No. C2-24(1)/61.]

**S.O. 340.—**Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereeto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

## SCHEDULE

Deshergarh Block 'B'

(Showing area notified for prospecting).

Drg. No. REV/154/61.

| Sl.<br>No. | Village      | Thana | Thana<br>No.  | District | Area    | Remarks |
|------------|--------------|-------|---------------|----------|---------|---------|
| 1          | Shirpuranama | .     | Gangajalghati | 1        | Bankura | Part    |
| 2          | Balrampur    | .     | "             | 2        | "       | "       |
| 3          | Saburbandh   | .     | "             | 27       | "       | "       |
| 4          | Kesharkundi  | .     | "             | 28       | "       | "       |
| 5          | Rajpura      | .     | "             | 29       | "       | "       |
| 6          | Ishwarda     | .     | "             | 31       | "       | "       |
| 7          | Anandpur     | .     | "             | 35       | "       | "       |

TOTAL—1830.40 Acres (Approx.)

## Boundary description:—

1—4 line is the common boundary of District Purulia (Manbhum) and Bankura.

4—3 line is the common boundary of District Burdwan and Bankura.

3—2 line passes through village Anandpur.

2—1 line passes through villages Anandpur, Ishwarda, Rajpur, Kesharkundi, Saburbandh, Shirpuranama and Balrampur.

The Plan of the area covered by this notification can be inspected at the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi or at office of the Collector Bankura (West Bengal).

[No. C2-24(1)/61.]

**S.O. 341.**—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

## SCHEDULE

(Showing area notified for prospecting)

DRG. No. REV/ 55/61.

Deshergarh Block 'C'

| Sl.<br>No. | Village      | Thana | Thana<br>No. | District         | Area    | Remarks |
|------------|--------------|-------|--------------|------------------|---------|---------|
| 1          | Anandpur     | .     | Raghunathpur | 330<br>(Purulia) | Manbhum | Part    |
| 2          | Sacntalmatha | .     | "            | 331              | "       | "       |
| 3          | Burgobani    | .     | "            | 332              | "       | "       |
| 4          | Dhangajor    | .     | "            | 333              | "       | Full    |
| 5          | Ranpur       | .     | "            | 334              | "       | "       |
| 6          | Bonra        | .     | "            | 335              | "       | "       |
| 7          | Goaladi      | .     | "            | 336              | "       | Part    |
| 8          | Bindvidi     | .     | "            | 337              | "       | "       |
| 9          | Inganpur     | .     | "            | 338              | "       | "       |
| 10         | Bartoria     | .     | "            | 339              | "       | "       |
| 11         | Sultandi     | .     | "            | 340              | "       | "       |

| Sl.<br>No. | Villag e      | Thana        | Thana<br>No. | District  | Area | Remarks |
|------------|---------------|--------------|--------------|-----------|------|---------|
| 12         | Barupra       | Raghunathpur | 341          | Manbhum   | Full |         |
| 13         | Navada        | "            | 342          | (Purulia) | "    |         |
| 14         | Kuthibari     | "            | 343          | "         | "    |         |
| 15         | Sarbari       | "            | 344          | "         | Part |         |
| 16         | Nituria       | "            | 345          | "         | "    |         |
| 17         | Bhamaria      | "            | 351          | "         | "    |         |
| 18         | Alkusha       | "            | 353          | "         | "    |         |
| 19         | Shunuri       | "            | 354          | "         | "    |         |
| 20         | Deuli         | "            | 355          | "         | "    |         |
| 21         | Ba-kullasheta | "            | 256          | "         | Full |         |
| 22         | Agyachak      | "            | 357          | "         | "    |         |
| 23         | Dundumi       | "            | 358          | "         | Part |         |
| 24         | Paradiha      | "            | 359          | "         | Full |         |
| 25         | Chandurdi     | "            | 360          | "         | "    |         |
| 26         | Rakta         | "            | 361          | "         | "    |         |
| 27         | Sashpur       | "            | 362          | "         | "    |         |
| 28         | Jagannathdi   | "            | 363          | "         | "    |         |
| 29         | Baltora       | "            | 364          | "         | Part |         |
| 30         | Kharbana      | "            | 365          | "         | "    |         |

TOTAL—6912.00 Acres (Approx.)

**Boundary description:—**

- 1—2 line passes through villages Nituria, Bhamaria and Alkusha.
- 2—3 line passes through villages Alkusha, Shunuri and Deuli.
- 3—4 line is the common boundary of District Burdwan and Purulia (Manbhum).
- 4—5 line is the Common boundary of District Bankura and Purulia (Manbhum).
- 5—6 line passes through villages Pardiha, Chandurdi, Rakta, Baltora, Kharbana, Murgabani, Saontal Mohta, Anandpur, Gealadi, Bindvidi, Ingapur and Bartoriya.
- 6—1 line passes through the villages Bartoriya, Sarbari, Sultandi and Nituria.

The Plan of the area covered by this notification can be inspected at the office of the National Coal Development Corporation Ltd. (Revenue Section), Darbhanga House, Ranchi or at office of the Collector Purulia, West Bengal.

[No. C2-24(1)/61.]

P. S. KRISHNAN, Under Secy.

**MINISTRY OF FOOD & AGRICULTURE**

**(Department of Agriculture)**

*New Delhi, the 31st January 1963*

**S.O. 342.**—In pursuance of sub-section (1) of section 7 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), and in supersession of the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O. 32 dated 29th December, 1962, the Central Government hereby appoints the Deputy Secretary incharge of Livestock Development in the Ministry of Food and Agriculture, Department of Agriculture, to be the Secretary of the Animal Welfare Board.

[No. 9-30/62-LD.]

K. C. SARKAR, Under Secy.

## (Department of Agriculture)

New Delhi, the 31st January 1963

THE ANDAMANS FOREST DEPARTMENT (CLASS I AND CLASS II GAZETTED POSTS)  
RECRUITMENT RULES, 1963.

**S.O. 343.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to Class I and Class II (Gazetted) posts of the General Central Service in the Andamans Forest Department, namely:—

**1. Short title.**—These Rules may be called the Andamans Forest Department (Class I and Class II Gazetted Posts) Recruitment Rules, 1963.

**2. Application.**—These Rules shall apply to the Class I and Class II (Gazetted) posts in the Andamans Forest Department, Port Blair mentioned in column 1 of the Schedule to these rules.

**3. Number, Classification and scale of pay.**—The number and classification of the said posts, and the scale of pay attached thereto, shall be as specified in columns 2 to 4 of the said Schedule.

**4. Method of recruitment, age limit and other Qualifications.**—The method of recruitment to the said posts, age limit, qualifications and other matters relating thereto shall be as specified in columns 5 to 13 of the Schedule aforesaid:

Provided that the upper age limit prescribed for direct recruitment may be relaxed in the case of Scheduled Castes and Scheduled Tribes and other special categories of persons in accordance with the general orders of the Government of India issued from time to time.

**5. Disqualifications.**—(a) No person, who has more than one wife living, or who having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life-time of such spouse, shall be eligible for appointment to any of the said posts; and

(b) no woman, whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to any of the said posts;

Provided that the Central Government may, if satisfied that there are special grounds for so ordering, exempt any person from the operation of this rule.

**6. Power to relax.**—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

## SCHE

Recruitment Rules for the Gazetted posts in Indian Forest Department under the control of the

| Name of post | No. of posts | Class in which post | Scale of pay | Whether selection limit for post direct non-selection post | Age limit for recruitment | Educational and other qualifications required for direct recruits |
|--------------|--------------|---------------------|--------------|--|---------------------------|---|
|--------------|--------------|---------------------|--------------|--|---------------------------|---|

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
|---|---|---|---|---|---|---|

Rs.

|                                 |   |                           |  |           |      |      |
|---------------------------------|---|---------------------------|--|-----------|------|------|
| 1. Chief Conservator of Forests | 1 | G.C.S. Class I (Gazetted) | 1750—100—2150 for IFS Officers with a S.P. of Rs. 250/- p.m. | Selection | N.A. | N.A. |
|                                 |   |                           | Rs. 1300—50—1600 for Non-IFS Officers.                       |           |      |      |

|                           |   |     |              |           |      |      |
|---------------------------|---|-----|--------------|-----------|------|------|
| 2. Conservator of Forests | 2 | Do. | 1100—50—1400 | Selection | N.A. | N.A. |
|---------------------------|---|-----|--------------|-----------|------|------|

|                                   |   |    |                           |           |      |      |
|-----------------------------------|---|----|---------------------------|-----------|------|------|
| 3. Deputy Conservator of Forests. | 7 | Do | 700—40—1100—<br>50/2—1250 | Selection | N.A. | N.A. |
|-----------------------------------|---|----|---------------------------|-----------|------|------|

DULI

## Ministry of Food &amp; Agriculture (Department of Agriculture)

| Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promoters | Period of probation, if any | Method of recruit-<br>ment, whether by direct recruit-<br>ment or by promotion or<br>transfer, grades from<br>which promotion<br>is to be made | In case of recruit-<br>ment by promotion trans-<br>fer, grades from<br>which promotion<br>is to be made | If a DPC<br>exists<br>whether<br>it is<br>in com-<br>position | Circumstances<br>in which UPSC<br>is to be consulted<br>in making re-<br>cruitment |
|---|-----------------------------|--|---|---|--|
|---|-----------------------------|--|---|---|--|

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9

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13

| NA. | 2<br>years<br>in case<br>of promo-<br>tion only | <i>By promotion failing which by deputa-<br/>tion</i>   | Class<br>D P C.   | required<br>under<br>the<br>rules  |
|-----|---|---|---|--|
|     |   | <i>Promotion</i><br>From the post of Conservator of Forests<br>of the Andamans Forest Department<br>with not less than 3 years service<br>as Conservator of Forests   |   | † Officers who<br>have put in not<br>less than 15 years<br>of service in a<br>Gazetted rank<br>out of which 3<br>years should<br>be as Conservator<br>of Forests |
|     |   | <i>Deputation</i><br>Central/State Forests†   |   |  |
| NA  | Do  | <i>By promotion failing which by deputation</i>   |   |  |
|     |   | <i>Promotion:</i><br>From Deputy Conservator of Forests,<br>or officers of equivalent status of the<br>Andamans Forest Department<br>having a minimum of 5 years service<br>in the grade  | Do  | Do   |
|     |   | <i>Deputation</i><br>Central/State Forest Officers who<br>have put in not less than 10 years<br>service out of which 5 years should<br>be as Deputy Conservator for Forests<br>or in an equivalent post.  |   |  |
| NA  | Do  | <i>Promotion failing which by Deputation</i>  | Class I<br>Depart-<br>mental<br>Promo-<br>tion<br>Committee | As required<br>under the<br>rules  |
|     |   | <i>Promotion</i><br>From Assistant Conservator of Forests<br>of the Andamans Forest Department<br>or officers holding posts in an equi-<br>valent grade in the Andamans Forest<br>Department with not less than 5 years<br>service in the grade |   |  |
|     |   | <i>Deputation :</i><br>Central/State Forest Officers with not<br>less than 5 years of service as Assis-<br>tant Conservator of Forests or in<br>an equivalent post in the Forest<br>Dept.   |   |  |

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|  |   |   |   |                                    |  |   |
|--|---|---|---|------------------------------------|--|---|
| 4. Assistant<br>Conser-<br>Vator of<br>Forests | 9 | G C S.<br>Class II<br>(Gazetted)<br>( Non-<br>Ministe-<br>rial) | 350—25—500—30<br>—590—EB—30—<br>800—EB—30—<br>830—35—900              | Selection<br>for Govt<br>servants) | Between<br>19—24<br>years<br>(relaxable<br>for Govt<br>servants) | <i>Essential</i><br>Associateship Dip-<br>loma of the Forest<br>Research Institute<br>and Colleges, Deh-<br>radun or equivalent.<br><i>Candidates selected</i><br><i>for training at</i><br><i>Dehra Dun will be</i><br><i>required to possess the</i><br><i>following educational</i><br><i>qualifications :—</i><br>Degree in Natural<br>Science, Maths,<br>Geology, Mechani-<br>cal Engineering or<br>Agriculture of<br>recognised Uni-<br>versity or equivalent<br>qualification. |
| 5. Asstt.<br>Mull<br>Manager.                  | 1 | Class II<br>Gazetted<br>Non-<br>Ministe-<br>rial.               | (a) Rs. 350—25—<br>500—30—590—<br>EB—30—800—<br>—EB—30—830—<br>35—900 | N.A.                               | 25 years<br>and below  | <i>Essential:</i><br>Experience of timber<br>trade and sawing<br>practice for about<br>five years.<br>Qualifications re-<br>laxable at Commis-<br>sion's discretion in<br>case of candidates<br>otherwise well<br>qualified.<br><i>Desirable:</i><br>A degree in Engi-<br>neering or Science.   |

If an Assistant  
Conservator of  
Forest is appointed  
to the post.

(b) Rs 350—25—  
500—30—590—  
EB—30—800

If the post is filled  
in by direct re-  
cruitment.

| 8 | 9 | 10 | 11 | 12 | 13 |
|---|---|----|----|----|----|
|---|---|----|----|----|----|

|    |         |   |  |                    |                              |
|----|---------|---|--|--------------------|------------------------------|
| No | 2 years | 25% of the vacancies will be filled by promotion and the remaining 75% by direct recruitment. | <i>Promotion</i><br>Rangers of the Andamans Forest, in the Department. (with 10 years service in the grade). | Class II<br>D.P.C. | As required under the rules. |
|----|---------|---|--|--------------------|------------------------------|

|      |     |   |  |      |     |
|------|-----|---|--|------|-----|
| N.A. | Do. | Transfer failing which by direct recruitment. | <i>Transfer</i> :<br>Assistant Conservator of Forests. | N.A. | Do. |
|------|-----|---|--|------|-----|

[No. 6-72/58-F.II.J]

T. S. KRISHNAMURTI, Dy. Secy.

## MINISTRY OF HEALTH

New Delhi, the 31st January 1963

**S.O. 344.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" awarded by the Cornell University Medical College, New York U.S.A., shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-37/61-ML.]

**S.O. 345.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" granted by the University of Basle, Switzerland, shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-7/62-ML.]

**S.O. 346.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" granted by the University of Rostock, Germany shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-24/62-ML.]

**S.O. 347.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" granted by the University of Michigan Medical School, U.S.A. shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-28/62-ML.]

**S.O. 348.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" awarded by the University of Medical Sciences, Bangkok, Thailand shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-35/62-ML.]

**S.O. 349.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "M.B.B.S. (Ceylon)" shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-33/62-ML.]

New Delhi, the 2nd February 1963

**S.O. 350.**—In exercise of the powers conferred by sub-section (2) of section 12 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following amendments in the Second Schedule to the said Act, namely:—

In the said Schedule,—

(i) against the entry relating to the University of New Zealand, in the last column the following foot-note shall be inserted, namely:—

"(f) When granted on or before the 31st December, 1961."

(ii) after the entries relating to the University of New Zealand, the following entries shall be inserted, namely:—

"University of Otago . . . M.B., Ch. B., Ch.M.M.D. Medicine and Surgery . . U. Otago"

These qualifications shall be recognised medical qualifications when granted on or after the 1st January, 1962."

[No. F. 17-35/62-M L.]

**S.O. 351.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Dottore in Medicine E. Chirurgia" granted by the University of Milano, Italy, shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-21/62-MI.]

**S.O. 352.**—Whereas the Medical Council of India has, in pursuance of the provisions of sub-section (3) of section 20 of the Indian Medical Council Act, 1956 (102 of 1956), read with sub-rule (2) of rule 4 of the Indian Medical Council (Post-graduate Medical Education Committee) Rules, 1961, elected Dr. R. M. Kasliwal, M.D., M.R.C.P., F.R.C.P., D.T.M. & H., Principal, S.M.S. Medical College, Jaipur, as a member of the Post-graduate Medical Education Committee vice Dr. Bidhan Chandra Roy, deceased;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 20 of the Indian Medical Council Act, 1956, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health, No. F. 30-1/60-MI, dated the 14th July, 1961, namely:—

In the said notification, under the heading "Elected by the Medical Council of India", for the existing entry against serial No. 1, the following entry shall be substituted, namely:—

"Dr. R. M. Kasliwal, M.D., M.R.C.P., F.R.C.P., D.T.M. & H., Principal, S.M.S. Medical College, Jaipur".

[No. F. 30-1-62-MI.]

## ORDERS

*New Delhi, the 31st January 1963*

**S.O. 353.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-37/61-MI, dated the 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the Cornell University Medical College, New York, U.S.A. for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. F. C. Eggleston, who possesses the said qualification, continues to work in the Christian Medical College and Hospital, Ludhiana, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. F. C. Eggleston shall be limited.

[No. F. 16-37/61-MI.]

**S.O. 354.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-7/62-MI, dated the 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the University of Basel, Switzerland for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. (Miss) M. Pflugfelder, who possesses the said qualification, continues to work in the Basel Mission Hospital, Udupi, Mysore State, to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. (Miss) M. Pflugfelder shall be limited.

[No. F. 16-7/62-MI.]

**S.O. 355.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-28/62-MI, dated 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the University of Michigan Medical School, U.S.A. for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Mary A. Burchard who possesses the said qualification, continues to work in the Creighton—Freeman Christian Hospital, Vrindaban (Uttar Pradesh), to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Mary A. Burchard shall be limited.

[No. F. 16-28/62-MI.]

**S.O. 356.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-35/62-MI, dated the 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the University of Medical Sciences, Bangkok, Thailand for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Songwut Sorasuchart, who possesses the said qualification continues to work in the Christian Medical College and Hospital, Vellore to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Songwut Sorasuchart shall be limited.

[No. F. 16-35/62-MI.]

**S.O. 357.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-33/62-MI, dated the 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "M.B.B.S. (Ceylon)" for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Griffith Sri Rockwood P.O. Madras-13, who possesses the said qualification, continues to work in the Christian Rainy Hospital, Rovaipuram, Madras, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter as the period to which the medical practice of the said Dr. Griffith Sri Rockwood shall be limited.

[No. F. 16-33/62-MI.]

**S.O. 358.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-14/59-MI, dated the 30th March, 1960, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "M.D." granted by the Baylor University, United States of America for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Jasper Lewis Mc Phail, who possesses the said qualification, continues to work in the Christian Medical College and Hospital, Vellore, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Jasper Lewis Mc Phail shall be limited.

[No. F. 16-50/62-MI.]

**S.O. 359.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-24/62-MI, dated the 31st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the University of Rostock (Germany) for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Claus Peter Rohde, who possesses the said qualification, continues to work in the Caritas Hospital, at Thellakom Kottayam, Kerala, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Claus Peter Rohde shall be limited.

[No. F. 16-24/62-MI.]

New Delhi, the 2nd February 1963

**S.O. 360.**—Whereas the Government of India in the Ministry of Health has, by notification No. 16-21/62-MI, dated the 2nd February, 1963 made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Dottore in Medicina E. Chirurgia" granted by the University of Milano, Italy for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. (Miss) Gigliola Baruffi, who possesses the said qualification, continues to work in the Pushpagiri Hospital, Tiruvella, Kerala State, to which she is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. (Miss) Gigliola Baruffi shall be limited.

[No. F. 16-21/62-MI.]  
B. B. L. BHARADWAJ, Under Secy.

## MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

MERCANTILE MARINF

New Delhi, the 28th January 1963

**S.O. 361.**—In exercise of the powers conferred by sub-section (1) and (2) of section 4 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby appoints Shri P. V. R. Rao, Secretary to the Government of India, Ministry of Defence, as a member of the National Shipping Board constituted in the Ministry of Transport and Communications Notification No. S.O. 946 dated the 24th April, 1961 vice Shri O. Pulla Reddi, resigned and further directs that in the said notification, for the entry relating to S. No. 7. the following shall be substituted; namely:—

"7. Shri P. V. R. Rao".

[No. 37-MD(9)/60.]

B. P. SRIVASTAVA, Dy. Secy.

(Department of Transport)

(Transport Wing)

MERCHANT SHIPPING

New Delhi, the 4th February 1963

**S.O. 362.**—In pursuance of rule 5 of the Indian Merchant Shipping (Seamen's Employment Office) Calcutta Rules, 1954 and in partial modification of the

notification of the Government of India in the Ministry of Transport and Communications (Department of Transport) No. 15-MT(2)/60 dated the 9th November, 1960, the Central Government hereby establishes a Seamen's Employment Board (Foreign going) at the port of Calcutta for a period of two years with effect from the date of issue of this notification and appoints the following persons to be members thereof, namely:—

1. The Director General of Shipping—*Chairman*
2. The Principal Officer, Mercantile Marine Department Calcutta.—*Vice Chairman*.

*Members representing the Government*

3. The Labour Commissioner, West Bengal
4. The Director of National Employment Service, West Bengal, Calcutta.
5. The Director, Seamen's Employment Office, Calcutta—*Secretary*.

*Members representing the shipowners*

6. Captain A. McSweeney.
7. Captain J. Patterson.
8. Shri R. B. Adams.
9. Shri H. D. R. Smith.
10. Shri H. M. Jagtiani

*Members representing the Seamen*

11. Shri Kali Mukherjee.
12. Shri Abdul Ganj
13. Shri Bikas Majumdar.
14. Shri Bijoy Mukherjee.
15. Shri Kalipada Roy.

[No. 15-MT(6)/62.]

D. S. NIM, Dy. Secy.

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**MINISTRY OF SCIENTIFIC RESEARCH & CULTURAL AFFAIRS**

*New Delhi, the 28th January 1963*

**S.O. 363.**—Whereas by notification of the Government of India in the Ministry of Scientific Research and Cultural Affairs No. F. 4-13/62-CI. dated 29th October, 1962, published in Part II, Section 3, sub-section (ii) of the Gazette of India dated the 10th November, 1962, the Central Government gave notice of its intention to declare the archaeological monument specified in the Schedule below to be of National importance.

And, whereas; no objections have been received to the making of such declaration.

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares the said archaeological monument to be of national importance.

## SCHEDULE

| Serial No. | State     | District | Tahsil  | Locality             | Name or monument   | Revenue plot number to be included under protection | Area     | Boundaries   | Ownership                           |
|------------|-----------|----------|---------|----------------------|--|---|----------|--|-------------------------------------|
| 1          | 2         | 3        | 4       | 5                    | 6  | 7   | 8        | 9  | 10                                  |
| 1          | Rajasthan | Udaipur  | jsamand | Nav Chowki Rajsamand | Ghat with inscriptions, Pavilions and Toranas, together with adjacent area comprised in survey plot No. 344. | Whole of survey plot No. 344.                       | 5 Bighas | North :—Lake East :— Survey plot No. 162. South :—Survey plot No. 343. West :—Survey plot No. 342 and a part of survey plot No. 343. | Government (Irrigation Department). |

[No. F.4-13/82-C.I.]  
 S. J. NARSLAN,  
 Assistant Educational Adviser.

## MINISTRY OF WORKS, HOUSING AND REHABILITATION

(Department of W. &amp; H.)

New Delhi, the 30th January 1963

**S.O. 364.**—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby appoints the Collector of Customs, Bombay, being a Gazetted officer of Government, to be the state officer for the purposes of the said Act in respect of the premises under the administrative control of the Income Tax Department situated at 7 and 9 Peddar Road, Bombay.

[No. 24(1)/62-EE.II/EE.I]

S. L. VASUDEVA, Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 30th January 1963

**S.O. 365.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the state of Rajasthan for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

## A SCHEDULE

All properties in the State of Rajasthan which have vested in the Custodian under section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act, upto 31st December, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 22(13)/Comp. &amp; Prop.61.]

**S.O. 366.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the States, of Delhi, Madhya Pradesh, Bihar and Orissa for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (C & R) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

## A SCHEDULE

All properties in the States of Delhi, Madhya Pradesh, Bihar and Orissa which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act upto 31st December, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer.

[No. 22(14)/Comp. &amp; Prop.61.]

**S.O. 367.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the State of U.P. for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (C & R) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

## A SCHEDULE

All properties in the State of U.P., which have vested in the Custodian under Section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officers under the provisions of the said Act upto 31st December, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officers.

[No. 2(21)/Comp. &amp; Prop.61.]

**S.O. 368.**—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the state of Punjab for a public purpose being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (C. & R.) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire and hereby acquires the evacuee properties specified in the schedule hereto annexed.

## THE SCHEDULE

All properties in the State of Punjab which have vested in the Custodian under section 11 of the Evacuee Interest (Separation) Act, 1951, as a result of adjudication by the Competent Officer under the provisions of the said Act up to 31st December, 1962 and in respect of which no appeals have been filed and if filed, have been rejected by the Appellate Officer (officers) concerned.

[No. 16(18)/58-Prop.II.Comp.]

M. J. SRIVASTAVA,  
Settlement Commissioner and *Ex-officio*.  
Under Secretary.

## (Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 1st February 1963

**S.O. 369.**—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints Shri H. L. Goswami, Assistant Settlement Officer in the Office of the Regional Settlement Commissioner, New Delhi as Managing Officer for the custody, management and disposal of Compensation Pool with effect from 14th January, 1963.

[No. 8/129/57-Comp-I.]

KANWAR BAHADUR,  
Settlement Commissioner (A) and *Ex-officio*.  
Dy. Secy.

## MINISTRY OF INFORMATION &amp; BROADCASTING

New Delhi, the 3rd December 1962

**S.O. 370.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 9 read with sub-rule (2) of rule 9 and sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby re-appoints Shrimati Ranu Mookerjee as a member of the Advisory Panel of the said Board at Calcutta with effect from the 8th October, 1962.

[No. 11/4/62-FC.]

**S.O. 371.**—In exercise of the powers conferred by section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinema'ograph (Censorship) Rules, 1958, the Central Government hereby appoints Shri Atawar Rahman as a member of the Advisory Panel of the said Board at Calcutta with immediate effect.

[No. 11/4/62-FC.]

*New Delhi, the 18th January 1963*

**S.O. 372.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shrimati Pushpalata Das as a member of the Advisory Panel of the said Board at Calcutta with immediate effect.

[No. 11/3/62-FC.]

*New Delhi, the 29th January 1963*

**S.O. 373.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 9 read with sub-rule (2) of rule 9 and sub-rule (3) of rule 8 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby re-appoints Shrimati Manik W. Welinkar as a member of the Advisory Panel of the said Board at Bombay with effect from 10th January, 1963.

[No. 11/2/62-FC.]

**S.O. 374.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shrimati Kalyani Bhagat as a member of the Advisory Panel of the said Board at Bombay with immediate effect.

[No. 11/2/62-FC.]

*New Delhi, the 4th February 1963*

**S.O. 375.**—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 and sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958, the Central Government hereby appoints Shrimati Pushpa Kohli and Shrimati Madhuri Dhirajlal Desai as members of the Advisory Panel of the said Board at Bombay with immediate effect.

[No. 11/2/62-FC.]

S. PADMANABHAN, Under Secy.

### MINISTRY OF LABOUR AND EMPLOYMENT

*New Delhi, the 29th January 1963*

**S.O. 376.**—Whereas, in the opinion of the Central Government:—

- (1) The rules of the provident fund of M/s National Insulated Cable Company of India Ltd., P.O. Shambnagar 24-Parganas, West Bengal (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st April, 1963, from the operation of all the provisions of the said Scheme,

subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE.

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 8 of the Act and the employees shall be entitled to payment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as 'Regional/State Commissioner') within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts returns, transfer, of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 naye paise and any amount less than 2.5 naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent. or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PF.II.]

**S.O. 377.—Whereas, in the opinion of the Central Government:—**

(1) The rules of the provident fund of M/s Shri Hanuman Steel Rolling Mills Company Ltd., Howrah, West Bengal (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the

1st November, 1952, from the operation of all the provisions of ~~the~~ said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE.

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer' shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers, respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 2.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 naye paise and any amount less than 2.5 naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent. or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)62-PF.II.]

**S.O. 378.**—Whereas, in the opinion of the Central Government:—

(1) The rules of the provident fund of M/s. Indian Aluminium Company Ltd., 31, Chowringhee Road, Calcutta-16 (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees Funds Act, 1952 (19 of 1952) and

(2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer') shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instruments shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E. P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is 12.5 naye paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye paise; that is, 2.5 naye paise shall be counted as 5 naye paise and any amount less than 2.5 naye paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4% per cent. or 1 per cent. above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

[No. 11(26)/62-PF.II.]

New Delhi, the 30th January 1963

S.O. 379.—In exercise of the powers conferred by sub-section (1) of section 10 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (46 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 2846, dated the 27th November, 1961, namely:—

In the said notification, for the entries "(4) Shri D. C. Gupta, Coal Mines Provident Fund Inspector" the entries "(4) Shri D. C. Gupta, Assistant Commissioner, Coal Mines Provident Fund" shall be substituted.

[No. 7(32)/63-PF.I.]

**S.O. 380.—Whereas, in the opinion of the Central Government:—**

- (1) The rules of the provident fund of M/s. Sankey Electrical Stamping Limited, 124-Curia Road, Howrah, West Bengal (hereinafter referred to as the said establishment), with respect to the rates of contribution are not less favourable to the employees therein than those specified in section 6 of the Employees' Provident Funds Act, 1952 (19 of 1952); and
- (2) the employees in the said establishment are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of section 17 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government, hereby, exempts the said establishment with effect from the 1st November, 1952, from the operation of all the provisions of the said Scheme, subject to the conditions specified in the Schedule hereto annexed, which are in addition to the conditions mentioned in the Explanation to sub-section (1) of the said section.

#### SCHEDULE

Every establishment shall have a provident fund scheme in force the rules of which with respect to the rates of contribution shall not be less favourable than those specified in section 6 of the Act and the employees shall also be in enjoyment of other provident fund benefits which on the whole shall not be less favourable to the employees than the benefits provided under the Act or any Scheme in relation to the employees in any other establishment of a similar character and these rules shall be followed in all respects.

2. The employer in relation to each establishment (hereinafter referred to as the 'employer' shall within three months of the date of publication of this notification, amend the constitution of the Provident Fund maintained in respect of the establishment in regard to the following matters, namely:—

- (a) the Provident Fund shall vest in a Board of Trustees and there shall be a valid instrument in writing, which adequately safeguards the interests of the employees and such instrument shall be duly registered under section 5 of the Indian Trusts Act, 1882;
- (b) the Board of Trustees shall consist of an equal number of representatives of the employees and the employer, and all questions before the Board shall be decided by a majority of votes;
- (c) the employer shall nominate one of his representatives on the Board as the Chairman who may exercise a casting vote if so provided under the rules of the establishment. Where a casting vote is exercised or where no casting vote is exercised but the opinion of the representatives is equally divided, the matter shall be referred to the Regional Provident Fund Commissioner or the State Provident Fund Commissioner appointed under the said Scheme (hereinafter referred to as Regional/State Commissioner) within whose jurisdiction the establishment to which the matter relates is situated and whose decision in the matter shall be final.

3. The Provident Fund Rules of any establishment shall not be amended except with the previous approval of the Regional/State Commissioner. Where any amendment affects the interests of the employees, before giving his approval, the Regional/State Commissioner shall give a reasonable opportunity to the employees to explain their point of view.

4. (a) The employers shall maintain accounts of the Provident Fund in such manner and submit such returns to the Regional/State Commissioner as the Central Provident Fund Commissioner may, from time to time direct.

(b) The employer shall furnish to the Regional/State Commissioner such accounts relating to the Provident Fund of the establishments as the Central Provident Fund Commissioner may prescribe from time to time. He shall also

furnish an annual statement of account or a Pass Book, in such form as may be approved, to each subscriber who, but for the exemption, would have been member of the Fund established under the Employees' Provident Funds Scheme, 1952.

(c) The employer shall make all investment of accumulations accruing after the date of exemption in securities of the Central Government. The reinvestment or conversion of securities on maturity shall also be in the securities of the Central Government. The employer shall formulate a procedure for prompt investment of provident fund moneys and shall get it approved from the concerned Regional/State Commissioner.

5. The employer shall afford such facilities for inspection of the accounts of the Provident Fund as the Central Provident Fund Commissioner may from time to time specify.

6. All expenses involved in the administration of the Provident Fund Scheme including the maintenance of accounts, submission of accounts and returns, transfer of accumulations and payment of inspection charges shall be borne by the employer.

7. The employer shall display on the notice board of his establishment in English, a copy of the approved rules and the translation of salient points of the rules in the language of the majority of workers respectively.

8. The employer shall within 3 months of the date of publication of this notification transfer to the Board of Trustees the accumulations standing to the credit of employees who but for the exemption would have been members of the Statutory Fund.

9. When the Fund is wound up or exemption of the establishment is cancelled, accumulations standing to the credit of the employees who, but for the exemption, would have been members of the Statutory Fund shall be transferred to that Fund as soon as possible and, in any case not later than 30 days in the case of securities and not later than 10 days in the case of cash in hand or bank, together with a statement or statements as may be required by the Regional/State Commissioner or Commissioner concerned.

10. The employer shall accept the past provident fund accumulations of an employee who is already a member of the E.P. Fund or an exempted fund and who obtains employment in his establishment. Such an employee shall immediately be admitted as a member of the establishment's Provident Fund. His accumulations which shall be transferred within 3 months of his joining the establishment shall be credited to his account.

11. The employer shall provide for nomination in his provident fund rules in accordance with the provisions contained in paragraph 61 of the Employees' Provident Funds Scheme, 1952.

12. The amount of contributions shall be calculated to the nearest quarter of a rupee; that is, 12.5 naye Paise or more shall be counted as the next higher quarter of a rupee and fractions of a rupee less than 12.5 naye Paise shall be ignored. The amounts of inspection charges and damages shall be calculated to the nearest 5 naye Paise; that is, 2.5 naye Paise shall be counted as 5 naye Paise and any amount less than 2.5 naye Paise shall be ignored.

13. On all repayable loans granted by the establishment interest shall be charged at the rate of 4½ per cent or 1 per cent above the rate allowed on the balance to the credit of the members whichever is higher.

14. The employer shall pay to the Regional/State Commissioner inspection charges payable, failing which damages shall be paid at a rate fixed by the Central Government from time to time.

15. Exemption granted by this notification is liable to be withdrawn by the Central Provident Fund Commissioner for breach of any of the aforesaid conditions or for any other sufficient cause which may be considered appropriate.

16. The Central Government reserve the right to impose such further conditions as may be deemed necessary in the interests of the employees in the establishment.

*New Delhi, the 31st January 1963*

**S.O. 381.—PWA/14/Mines/1/63.**—In exercise of the powers conferred by sub-section (3) of section 14, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 3263 PWA/14/Mines/62, dated the 19th October, 1962, namely:—

In the said notification,—

In item No IV—in entry 6, the following serial shall be inserted at the end, namely:—

“(xi) Kanpur (Verification)”.  
[No. Fac. 535(13)/62.]

*New Delhi, the 1st February 1963*

**S.O. 382.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour and Employment, S.O. 1243, dated the 17th April, 1962, the Central Government hereby appoints Sarvashri (1) Subhendu Bose, (2) Sachikanta Bhatta harjee and (3) Lali Bandhu Roy to be Inspectors for the whole of the State of West Bengal for the purposes of the said Act or of any Scheme framed thereunder in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20(20)62-P.F.I.]

*New Delhi, the 4th February 1963*

**S.O. 383.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri P. C Uppal to be an Inspector for the whole of the State of Punjab and Union territory of Himachal Pradesh for the purposes of the said Act or of any scheme framed thereunder in relation to an establishment belonging to, or under the control of the Central Government, or in relation to an establishment connected with a railway company, a mine or an oil-field or a controlled industry.

[No. 20(33)/63-P.F.I.]

**S.O. 384.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri M. T. Muthu Pillai to be an Inspector for the whole of the State of Kerala for the purposes of the said Act and of any scheme framed thereunder, in relation to any establishment belonging to or under the control of the Central Government, or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20(35)/63-P.F.I.]

**S.O. 385.**—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby nominates on the recommendation of the State Government Shri Har Swarup Sharma to be a member of the Regional Committee for the State of Uttar Pradesh in place of Shri Qazi Mukhtar Ahmad and makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 1703, dated the 29th June, 1960, namely:—

In the said notification, for the entry in the second column against item (2), the following entry shall be substituted, namely:—

“Shri Har Swarup Sharma, Deputy Secretary to the Government of Uttar Pradesh, Labour Department, Lucknow”.  
[No. 12(1)/63-P.F.II.]

P. D. GAIHA, Under Secy.

*New Delhi, the 30th January, 1963*

**S.O. 386.**—In exercise of the powers conferred by sub-section (1) of section 19 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby appoints the officer mentioned in column (1) of the table below to be an Inspector for the purposes of the said Act within the local limits specified in column (2) of the said table and accordingly makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 3476, dated the 8th November, 1962, namely:—

In the Schedule to the said notification, after sub-item (x) of item No. 32, the following sub-item shall be inserted, namely:—

“(xi) Kanpur (Verification).”

**TABLE**

| Designation of the Officer                             | Territorial Jurisdiction  |
|--|---|
| (1)  | (2)   |
| Labour Inspector (Central), (Verification),<br>Kanpur. | The States of Uttar Pradesh, Punjab and<br>the Union Territories of<br>Pradesh and Delhi. |

[No. LWI-I-3(41)/62.]

K. K. UPPAL, Under Secy.

*New Delhi, the 30th January 1963.*

**S.O. 387.**—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 2665, dated the 2nd November, 1961, namely:—

In Schedule VI of the said notification, under the heading “Allahabad Division” in the entries against serial No. 4, under columns 4 and 5, the entries “Kazanpur” and “Hindustan Industries Machine Mfg. Co.” shall be omitted.

[No. F. HI-6(141)/59.]

*New Delhi, the 2nd February 1963*

**S.O. 388.**—In exercise of the powers conferred by section 73-F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 2665, dated the 2nd November 1961, namely:—

In Schedule I of the said notification, against serial No. 9, in column 5, the entry “2. Nandi Hasbi and Co.” occurring against the entry “Mundargi” shall be omitted.

[No. F. HI-6(141)/59.]

O. P. TALWAR, Under Secy.

*New Delhi, the 31st January 1963*

**S.O. 389.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Maheshpur Colliery, P.O. Katrasgarh, Dhanbad and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
DHANBAD

In the matter of a reference under Section 10(1) (d) of the Industrial Disputes Act, 1947 (XIV of 1947).

REFERENCE NO. 29 OF 1962

PARTIES:

Employers in relation to Maheshpur Colliery, P.O. Katrasgarh  
AND

Their Workmen.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

APPEARANCES:

*For the Employers:*

Shri P. P. Chadha, Labour Officer.

*For the Workmen:*

Shri Lalit Burman, General Secretary, Koyla Mazdoor Sabha.

STATE: Bihar.

INDUSTRY: Coal.

Camp: Jamshedpur, dated the 31st December, 1962

AWARD

This reference has been made by the Ministry of Labour & Employment, Government of India, by its Order No. 2/50/62-LRII, dated the 14th September, 1962, under Section 10(1) (d) of the Industrial Disputes Act, 1947 (XIV of 1947), to this Tribunal for adjudication of the following industrial dispute:—

"Whether the dismissal of Shri D. Chakravarti, Loading Babu of Maheshpur Colliery, by the employers in relation to the said Colliery with effect from the 7th September, 1961, was justified? If not, to what relief is the workman entitled?"

2. The workman filed his written statement of demands on 4th October 1962, whereas, the management filed its written statement on 5th October 1962. The management, thereafter, also filed a rejoinder on 5th November 1962 to the written statement filed on behalf of the workman and the workman also in his turn filed a rejoinder to the written statement of the management on 12th November 1962.

3. The workman concerned, Shri D. Chakravarti, was a Loading Babu of Maheshpur Colliery on 18th July 1961. The case of the Bihar Koyla Mazdoor Sabha, the Union representing the workman, was that this workman, Shri Chakravarti, was a leading member of the local branch union of the Sabha, which was functioning in the Maheshpur Colliery. There was a serious disturbance in the colliery in July 1961 due to the disruptive activities of some interested persons with the help and aid of some of the officials of the company, with the result that the Secretary of the Maheshpur Colliery branch union was assaulted in the office premises in the broad day light. Following the assault on the Branch Secretary, repeated attempts were made to assault Shri D. Chakravarti by some outsiders and by a group of temporary workmen employed by the management for disruptive activities. Shri Chakravarti reported the facts of the attempts of assault on him to the Manager on several occasions but no action was taken against them. In view of such disturbed conditions, Shri Chakravarti asked for leave from 23rd July 1961 as his personal safety and security were in danger and he was not in a position to perform his normal duties. Shri Chakravarti, thereafter, left the Colliery, and, during this period of leave, he fell ill and asked for further extension of leave from 7th August 1961 to 19th August 1961 on that ground. After being cured he returned to the Colliery on 20th August 1961. Meanwhile, the management, in the absence of Shri Chakravarti, without serving any charge-sheet on him held an *ex parte*

domestic enquiry on 30th July 1961, and, thereafter, dismissed him from 7th September 1961. The further case of the workman was that his dismissal was without jurisdiction as no charge-sheet was served on him and the domestic enquiry in his absence was without jurisdiction and as such he could not be dismissed in contravention of Standing Order No. 28, and, therefore, his dismissal should be set aside and he should be reinstated with full back wages.

4. The case of the management, on the other hand, was that Shri Chakravarti, the workman concerned, started absenting himself from duty with effect from 23rd July 1961 and did not submit wagon loading report in respect of 22nd July 1961, and, his application requesting for leave was rejected but in spite of it Shri Chakravarti continued to be absent with the result that on 28th July 1961 a charge-sheet was issued to him which was not served because he was not in the Colliery, and, therefore, it was hung up on the notice board, and, thereafter, on 30th July 1961 an enquiry was held, in the presence of two independent witnesses one of whom was M.W. 3 (Jadunandan Ram). At the enquiry the workman concerned was found guilty of misconduct and therefore he was dismissed.

The management admitted that there was some disturbance in the Maheshpur Colliery area during the period January—July 1961 but it denied the allegation of the workman that Shri Chakravarti reported any fears or attempts of assault on him to the Manager. The management further contended that no doubt Shri Chakravarti applied for leave but he absented himself on 23rd July 1961 which he should not have done without obtaining leave before hand.

5. Shri P. P. Chadha, representing the management, contended that the Union representing the workman concerned was not a recognised one and the recognised Union was Congress Mazdoor Sabha which was in existence from 1954. He contended that as Shri Chakravarti absented himself without obtaining leave first and he made false allegations against the Manager and applied leave on false grounds, a regular domestic enquiry was held, although in his absence, but in the presence of two independent persons, and, therefore, the domestic enquiry could not be assailed and at the said enquiry he was found guilty and, therefore, he was properly dismissed.

6. Shri Lalit Burman, appearing for the Union, however, contended that in this case the enquiry was invalid and without jurisdiction because no charge-sheet was served on him in spite of the fact that the management knew the address of the workman concerned. He further submitted that it will appear from the letter of dismissal that Shri Chakravarti was dismissed only on account of his absence without leave but that dismissal was illegal, because it was in contravention of standing orders. On these grounds, therefore, it was contended that the dismissal should be set aside and the workman concerned should be re-instated.

7. In order to appreciate the arguments of both sides, it would be useful to set out the facts of the case briefly. These facts are as below:—

- (a) Shri Chakravarti was in service as a Loading Clerk of the Colliery on 18th July 1961. On 18th July 1961 Shri N. Bhattacharya, W.W. 1, Secretary of the Union filed a petition, Exhibit M, on behalf of Shri Chakravarti to the Superintendent of the Colliery making allegations against the Manager regarding the apprehension of Shri Chakravarti of assault on him. On 19th July 1961 the Superintendent, Shri Mahesh, M.W. 1 sent a letter to the Sub-Inspector of Police Exhibit M-11, informing him, on the basis of the aforesaid letter Exhibit M, that there was some quarrel among the workmen in the Colliery on 18th July 1961, and, therefore, he should enquire into the matter, without, however, sending the letter Exhibit M or giving its substance therin;
- (b) When no step was taken by the Manager for the personal safety of Shri Chakravarti, as requested in Exhibit M, he stopped working and absented himself from 23rd July 1961. On 24th July 1961, the workman, Shri Chakravarti, made an application, Exhibit M-1, to the Superintendent of the Colliery saying that on 23rd July 1961 when he was going to sign the Attendance Register the persons named by him therein came to beat him and therefore he could not attend to duty and that the Manager instead of taking action against them had instigated them and therefore he may be granted leave

from 23rd July 1961 to 7th August 1961 to save his life. In this application, Exhibit M-1, the address given was of Maheshpur Colliery, but it was admitted by the Manager of the Colliery, M.W. 2, that "The home address of the workmen are maintained in the colliery records"

A reply, Exhibit M-8, to the application dated 24th July 1961, Exhibit M 1, of Shri Chakravarti, was sent by the Superintendent, M.W. 1, on 3rd August 1961, informing him that there does not appear to be any reason for apprehension of danger to his life, and, therefore, leave applied for from 23rd July 1961 to 7th August 1961 cannot be granted, and, as such, he will be treated as absent without leave and disciplinary action will be taken against him in accordance with the relevant standing orders. Exhibit M-8, however, was received after about a month on 1st September 1961 by Shri Chakravarti, through Shri N. Bhattacharjee, W.W. 1 as will appear from the letter of Shri D Chakravarti dated 1st September 1961, Exhibit M-9, to the Superintendent denying the allegation of the Superintendent that there was no reasonable apprehension of any danger. In this letter, Exhibit M-9, Shri Chakravarti stated that before receiving the letter, Exhibit M-8, under reference, he had already submitted an application on 23rd August 1961 for permission to join duties but no reply had yet been received,

(c) Meanwhile, on 28th July 1961 a letter, Exhibit M 2, was sent to Shri Chakravarti, which was charge-sheet as well as a notice of the enquiry, in which it was said that Shri Chakravarti had not submitted wagon report of 22nd July 1961, that the allegations made by him in his letter dated 18th July 1961, Exhibit M and dated 24th July 1961, Exhibit M-1, against the Manager, who sent the letter Exhibit M-2, were absolutely false and baseless, and, there was no danger to his life, and, that he was trying to secure leave on false pretext and that he should have secured leave from the Manager before proceeding on leave but he proceeded on leave on 23rd July 1961 and sent an application on 24th July 1961 which meant that he was absenting himself from duty without leave and therefore an enquiry into this charge will be held on 30th July 1961 in his presence,

(d) It will further appear from Exhibit M-3, the proceeding of the enquiry on 30th July 1961 and also from the report dated 28th July 1961 of Doma Gope, on the charge-sheet, Exhibit M-2, that the charge-sheet and the notice of enquiry could not be delivered to Shri D Chakravarti as he was not available at the Colliery, and, therefore, the said letter Exhibit M 2 was displayed on the notice board of the Colliery. The enquiry, thereafter, proceeded *ex parte* in the absence of Shri Chakravarti, but in the presence of Shri A. Singh, who has not been examined, and J. N. Ram, M.W. 3, who witnessed the enquiry, as alleged independent witnesses. The enquiry records, in the shape of statements of witnesses examined, are Exhibits M-4 to M-7, and,

(e) The Superintendent of Colliery Shri B. K. Mahesh, M.W. 1, thereafter sent a letter, Exhibit M-10, on 7th September 1961 to Shri Chakravarti informing him that his services has been dispensed with from the day of his absence on 23rd July 1961. The basis of this letter of dismissal, Exhibit M-10, is important. The last portion of this letter is in these terms

"Under the circumstances, it is clear that you were keeping absent from your duty without any proper reason and proper authorised leave

Hence you are liable for disciplinary action under standing order not only keeping absent without leave but also for lodging false complaints. As you have not given satisfactory explanation for your absenting from duty from 23rd July 1961 to 7th August 1961 you lost the lien on your job and therefore your services stand dismissed from the date of your absence i.e. 23rd July 1961" (underlined by me).

8. The management, in support of its case, examined M.W. 1, Shri B. K. Mahesh, Superintendent of the Colliery during 1961 and the first half of 1962; M.W. 2, Shri N. B. Mitra, Manager of the Colliery, and, M.W. 3, J. N. Ram, Attendance Clerk of the Colliery, who was sent for to witness the enquiry, and, also filed documents, Exhibits M to M-24 in support of its case. It may be mentioned here that Exhibits M-13 to M-24 are for the period 1960 upto February 1961 and they are not quite relevant on the point at issue in the present case.

9. The workman also examined, W.W. 1, Shri N. Bhattacharjee, Secretary of the Maheshpur Colliery Branch of the Union, and W.W. 2, Shri D. Chakravarti, the workman concerned, and, also filed documents, Exhibits W to W-2.

10. From the admitted foregoing facts, it is clear that the alleged domestic enquiry was held without serving the chargesheet on the workman concerned and without giving him any opportunity to defend himself and in his absence. It was alleged, on behalf of the management, that it did not know the home address of Shri Chakravarti, and, therefore, the chargesheet was sent to his Colliery address. This statement cannot be accepted as true in the face of the admission of the Manager, M.W. 2, Shri N. B. Mitra who admitted, in his cross-examination, that "The home address of the workmen is maintained in the colliery records." On this admission, therefore, it is plain that only a show of domestic enquiry was made. The case of the workman, on the other hand, on this point is that it was only after dismissal of Shri Chakravarti that this faked enquiry papers were prepared by examining persons who were under the clutches of the Manager in order to make a show that chargesheet was given and that domestic enquiry was made and it was witnessed by two independent witnesses. It is curious that even of this enquiry which was made in the absence of the workman concerned, there is no enquiry report on record at all.

Standing Order, Exhibit W. 2, in clear terms lays down in Standing Order No. 28 that no order of punishment by way of suspension, dismissal or fine, can be made unless the employee concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. In the present case, Standing Order No. 28 was violated and it was not followed at all.

It is true that in the charge sheet several items of charges were mentioned but from the letter of dismissal, the material portion of which has been quoted above, it is clear that really Shri Chakravarti was dismissed for having absented himself from duty from 23rd July 1961 to 7th August 1961. The argument of Shri Chadha, that the words "but also for lodging false complaints" occurring in the last portion of the letter of dismissal, Exhibit M-10, reproduced before, indicate that Shri Chakravarti was dismissed also for lodging false complaints cannot be accepted as correct, because those words occur in connection with the workman's liability for disciplinary action.

It is curious that although the leave was not granted, as applied for on 24th July 1961, the workman concerned was not informed earlier before 3rd August 1961, which even was received by him on 1st September 1961. The disturbance in the colliery is admitted on behalf of the management, and, therefore, there was sufficient justification for making an application for leave. When admittedly the workman left the colliery on 23rd July 1961, the proper course for starting the enquiry would have been on or after 20th August 1961, when Shri Chakravarti returned to the colliery and reported himself for duty. This obvious thing however was not done.

The so-called enquiry held, was only a show of enquiry, a shadow of enquiry. The alleged independent witness, Jadunandan Ram, M.W. 3, admitted that he was present at the enquiry for 10 minutes and in his presence only one person was examined and when he arrived there Kishun Passi was being examined from before and when he reached his examination was finished. This shows the nature of the alleged enquiry. The enquiry was not fair and proper and it was only an eyewash, and, therefore, when the enquiry was admittedly held in the absence of the workman concerned it cannot be accepted as valid and binding. The allegation of the workman, in the argument, that these enquiry papers were brought into existence after the dismissal of Shri Chakravarti, does not appear to be correct, but certainly the enquiry having admittedly been conducted in the absence of Shri Chakravarti as stated earlier, is worthless and of no legal effect. The management in spite of knowing the home address of Shri Chakravarti, as stated before, did not send the charge sheet to him there. The fact that the charge sheet was

hung up on the notice board is also, in my opinion, not sufficient when the home address of the workman concerned was known and it could be ascertained from the colliery records as admitted by M.W.2. The enquiry must, therefore, be held as not fair and bona fide and as such invalid.

11. It was argued, on behalf of the workman, that a list was prepared by the management for retrenching several persons and on 7th September 1961 notices of retrenchment were issued to several persons and a copy of the said list was sent to the Union also and that list is Exhibit W-1 and it shows that Shri Chakravarti who was appointed in 1948 was also on 7th September 1961 one of the persons on the retrenchment list but subsequently in the case of Shri Chakravarti it was charged to a letter of dismissal. This retrenchment list, Exhibit W-1, however, is not admitted on behalf of the management, but M.W. 2, in his cross examination, could not say immediately that Exhibit W was an exact copy and therefore, he could not deny it. On my finding, however, that the alleged domestic enquiry was not fair and bona fide and that it was invalid and in violation of the principles of natural justice, it is not necessary to deal with this part of the case at length or give any concluded opinion on it.

12. It is also curious that the charge sheet, Exhibit M-2, for the alleged charge, was issued on a plain paper in the form of letter and not on the charge sheet form, a copy of which was filed on behalf of the workmen and is marked Exhibit W. It was admitted by M.W.1, on behalf of the management, that Exhibit W (Charge Sheet Form) was of Ekra Colliery, which is one of the collieries of the Bharat Collieries Limited. On behalf of the workmen, his case was that this Charge Sheet Form, Exhibit W, was the form of the Bharat Collieries Limited, for all its collieries and that Charge Sheets are given in that form. However, it was not denied by the witness of the management that each colliery has got its own charge sheet form. If that is so, how is that that the charge sheet was not issued on the form Exhibit W, or, on the admitted Charge Sheet Form of this Maheshpur Colliery, as admitted by M.W.1. There is no explanation for departure in this case from the admitted procedure.

13. The workman, when he reported for duty on 20th August 1961, produced a medical certificate dated 19th August 1961 in proof of his sickness, but there is no mention of it even in the letter of dismissal dated 7th September 1961, Exhibit M-10, that it was rejected or was unavailable. The action of the management in rejecting the application for leave made by the workmen on 24th July 1961, Exhibit M-1, after ten days, just four days before the expiry of his leave on 7th August 1961, was itself not fair and bona fide and proper. Even then intimation was given to the workman on 1st September 1961, after the expiry of his leave. The workman, therefore, cannot be held guilty of absence without leave in these circumstances.

14. The letter of dismissal Exhibit M.10 clearly shows, as argued on behalf of the workman concerned, that he was dismissed for absence from 23rd July 1961 to 7th August 1961 but he could not be dismissed without employing with the mandatory provisions of Standing Order No. 28 referred to above. The alleged show of following this standing order cannot be, on the facts here, considered to be sufficient or bona fide, when the obvious thing which should have been done by the management was not done, namely, the charge sheet was not sent under a registered letter with acknowledgment due to the home address of the workman when he was found to be absent from the colliery and when his home address was there in the colliery records as admitted by M.W.2 and as mentioned earlier also, I, therefore, hold that, on the facts here, Standing Order No. 28 was contravened and not followed and the workman concerned was dismissed without serving a charge sheet on him and without giving him any opportunity to explain the circumstances against him and, as such, the dismissal is illegal and ultra vires.

15. There is much force in the contention of the Union that the dismissal of Shri Chakravarti was due to his taking an active part in the Union activities and as such it was purely a case of victimisation. M.W. 1, has stated that Shri Chakravarti has all along been an office bearer of the Union and at the time of his dismissal he was President of that Branch. The workman, M.W.2, has said the same thing. This fact is not denied in evidence nor was it contradicted in the argument by the management. The dismissal of Shri Chakravarti, therefore, prima facie appears to be a case of victimisation.

16. For the reason given above, I hold that the dismissal of Shri D. Chakravarti, the workman concerned, was not bona fide, fair, and justified and was

entirely illegal and therefore it cannot stand. The result, therefore is that the dismissal of Sri D. Chakravarti, the workman concerned in the present dispute, is set aside and he is reinstated with effect from 23rd July 1961 with full back wages and other allowances and emoluments to which he would have been entitled. He will be deemed to be in the service of the company throughout as a Leading Babu since 23rd July 1961. The reference is answered accordingly. The parties shall bear their own costs.

17. This award must be implemented within one month from the date when this award becomes enforceable under Section 17A of the Act.

18. This is my award which I make and submit to the Central Government under Section 15 of the Act.

Camp: Jamshedpur  
Dated, the 31st December, 1962.

(Sd.) RAJ KISHORE PRASAD,  
Presiding Officer,  
Central Government Industrial  
Tribunal, Dhanbad.

[No. 2/50/62-LRII.]

## ORDERS

New Delhi, the 29th January 1963

**S.O. 390.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bhadra Colliery (Rewa Mining Syndicate), Post Office Kotma and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

## SCHEDULE

(1) Whether the management of the Bhadra Colliery was justified in dismissing the following workmen with effect from the 13th September, 1961, namely:—

1. Shri Sirajoo, Underground Trammer.
2. Shri Sabhapati, Surface Trammer.
3. Shri Jokhooram, Surface Trammer.
4. Shri Mayaram, Reliever.
5. Shri Shyamalal, Miner.
6. Shri Gangaram, Miner.
7. Shri Ramcharan, Surface Trammer.
8. Shri Motisingh, Banks man.
9. Shri Chandrabhan, Ash Cooly.
10. Shri Budhasen, Miner.
11. Shri Chohandas, Miner.
12. Shri Sumant, H. Khalasi.
13. Shri Vishwanath Pandey, H. Khalasi.

(2) If not, to what relief are the workmen entitled?

[No. 5/31/62-LRII.]

New Delhi, the 30th January 1963

**S.O. 391.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dhemo Main Colliery, P.O. Sitarampur and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the dismissal of the following workmen by the management of Dhemo Main Colliery with effect from the dates specified against each of them was legal and proper; if not, to what relief are the workmen entitled:—

|                             |                          |          |
|-----------------------------|--------------------------|----------|
| 1. Shri Sadananda Mukherjee | Under Ground Time-keeper | 24-10-62 |
| 2. Shri Sudhir Chatterjee   |                          |          |
| 3. Shri Balaram Chatterjee  |                          |          |
| 4. Shri Bhupan Mukherjee    | Attendance Clerks        | 24-10-62 |
| 5. Shri N. G. Chatteraj     |                          |          |
| 6. Shri Sadananda Das       |                          |          |
| 7. Shri Pijush Acharjee     |                          |          |
| 8. Shri Birendra            | Sand Cleaner             | 5-11-62  |
| 9. Shri Baidyanath Das      | Assistant Time-keeper    | 31-10-62 |

[No. 6/21/62-LRII.]

New Delhi, the 1st February 1963

**S.O. 392.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ballarpur Colliery of Ballarpur Collieries Company, Nagpur and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal Bombay, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the management of Ballarpur Colliery of Ballarpur Collieries Company was justified in terminating the services of Shri Lachamayya Ellayya, an Ex-T.B. Patient who was working as wagon shunting mazdoor, with effect from the 20th October, 1962. If not, to what relief is the workman entitled?

[No. 3/8/62-LRII.]

A. L. HANNA, Under Secy.

New Delhi, the 1st February 1963

**S.O. 393.**—Whereas it appeared to the Central Government that Shri P. K. Dan and Shri D. N. Das Gupta are unfit to continue to hold First Class Manager's Certificate of Competency and Mine Surveyor's Certificate of Service, respectively, by reason of incompetence or gross negligence or misconduct in the performance of their duties under the Mines Act, 1952 or under the Coal Mines Regulations, 1957;

And, whereas the Central Government in the Ministry of Labour and Employment had, by Notification No. S.O. 978 dated the 28th April, 1959, as amended by Notification No. S.O. 1521 dated the 29th June, 1959, appointed a Court to hold an enquiry to determine as to whether or not the said Shri P. K. Dan and Shri D. N. Das Gupta are fit to continue to hold such certificates;

And, whereas the said Court had recommended the suspension of the First Class Manager's Certificate of Competency held by Shri P. K. Dan for a period of one and a half year and has further recommended the cancellation of the Mine Surveyor's Certificate of Service held by Shri D. N. Das Gupta;

Now, therefore, in pursuance of the provisions of sub-regulation (3) of regulation 25 of the Coal Mines Regulations, 1957, the Central Government hereby—

- (i) suspends the First Class Manager's Certificate of Competency No. 450 dated the 10th May, 1951 held by Shri P. K. Dan for a period of one and a half year; and
- (ii) cancels the Mine Surveyor's Certificate of Service No. 240 dated the 17th December, 1927 held by Shri D. N. Das Gupta, with effect from the date of publication of this Notification.

[No. 2/6/62-MI.]

R. C. SAKSENA, Under Secy.

New Delhi, the 4th February 1963

**S.O. 394.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Punjab National Bank Ltd., and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
BOMBAY

REFERENCE No. CGIT-34 OF 1962

PARTIES:

Employers in relation to the Punjab National Bank Limited

AND

their workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the employers: Shri C. Raghavachary, Manager.

For the workmen: Shri K. K. Mundul, Vice-President, All-India Bank Employees' Association, and Shri S. D. Vyas, General Secretary, Saurashtra Bank Employees' Union with Shri H. N. Mehta the workman concerned.

STATE: Gujarat.

INDUSTRY: Banking.

Bombay, dated the 30th January 1963

#### AWARD

The Central Government, by the Ministry of Labour and Employment's Order No. 51(35)/62-LRIV, dated 12th October, 1962, made in exercise of the powers

conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), was pleased to refer the industrial dispute between the parties above-named in respect of the subject matters specified in the schedule to the said order to me for adjudication:—

#### SCHEDULE

"Whether the termination of employment of Shri H. N. Mehta who was employed in the Bhavnagar Branch of the Punjab National Bank Limited, was justified and, if not, to what relief is he entitled?"

2. After the reference was made, the Bank filed its written statement on 7th November 1962 and the union filed its statement of claim dated 30th November 1962. The Bank has not filed any rejoinder to the union's statement but has relied upon the submissions made in its statement of 7th November 1962. Thereafter, the submissions of the parties were heard by me at Bombay on 24th December 1962 and 11th January 1963, when the hearing was concluded.

3. The facts of the case are that Shri H. N. Mehta, the workman concerned, who is a matriculate, was first appointed in service on 6th March 1961, as per the Bank's letter of appointment of that date (Ex. E-1). He was appointed in place of a permanent employee, one Shri P. T. Shah, the Head Cashier, who was on leave, and he worked continuously for 96 days, till 10th June 1961, when his services were terminated by the Bank's letter dated 10th June 1961 (Ex. E-3), which stated that as Shri P. T. Shah, the Head Cashier, in whose place the temporary appointment was made was to resume his duties on 12th June 1961 his appointment would automatically come to an end, and he was relieved of his duties with effect from the afternoon of Saturday, the 10th June 1961.

4. At this stage, I might as well consider a controversy between the parties. According to the Bank, Mehta's services were terminated on 10th June 1961, but he was again appointed in service with effect from 14th June 1961, by the Bank's letter of appointment dated 13th June 1961 (Exhibit E-2). That letter stated that he was appointed from 14th June 1961 on a temporary basis for a period of 37 days during the leave period of a permanent clerk-cum-godown keeper of the Bank. Now, the union's contention is that there had been no break in Mehta's service and that the Bank's letters of 10th June 1961 and 13th June 1961 were termination and re-employment only in name. The union has stated that 10th June 1961 was a Saturday and 11th June 1961 a Sunday and that Mehta had worked as usual in the Bank on the 12th and 13th June 1961 when the letter re-appointing him in service (Exhibit E-2) was issued to him. The union at the hearing on 24th December 1962, mentioned details of the work that Mehta had done on the 12th June 1962 and its case was that there were entries in the records of the Bank of the 12th and 13th June 1961 to show that he had worked in the Bank on the 12th. Time was, therefore, given to the Bank to ascertain from its Bhavnagar Branch after consulting the records mentioned by the union, whether Mehta had worked on the 12th and 13th June 1961. At the hearing on 11th January 1963, it was ascertained that Mehta had made entries in the local and outward despatch register under date 12th June 1961 (Exhibit W-6), in the clearing house summary of the Bank under dated 12th June 1961 (in which summary there were entries in the handwriting of Mehta) under columns "cheques delivered from" and "No. of cheques" (Exhibit W-8), and entries in the cash voucher dated 12th June 1961 for Rs. 60,000/- being the amount of cash deposited as per the slip attached which bears Mehta's signature at the reverse and which signature was countersigned by the Manager and the Accountant (Exhibit W-9). It was not also seriously disputed that Mehta may have worked in the Bank on the 13th June also. Shri Raghavachary, Manager of the Bombay Branch of the Bank, however, argued that this work was done by Mehta in a friendly manner as a close relationship had already been established between him and the Bank and as Mehta was expecting a renewal of his appointment. I am, however, inclined to accept the union's contention that the fact that Mehta had worked in the Bank on the 12th and 13th June 1961 goes to show that the letters terminating his services on 10th June 1961 and reappointing him with effect from 14th June 1961 were, mere formalities.

5. Be that as it may, it is, however, admitted that Mehta was in continuous service with the Bank from 14th June 1961 till his services were terminated

by the Bank's notice dated 20th June 1962. The notice terminating his services intimated to him as follows:—

"You were appointed in this office as a temporary clerk-cum-godown keeper pending final selection. Now our Head Office has finally decided in the matter and as per their instructions you are, therefore, relieved of your services today afternoon as your services are no longer required from tomorrow, the 21st instant

In terms of appointment letter issued to you, no notice remains to be given to you in this matter which please note."

It is against this letter terminating the services of Mehta that the union raised this industrial dispute. The matter was taken up in conciliation but conciliation having failed the matter was referred for adjudication by Government.

6. Before dealing with the contentions of the parties, I may state that it is an admitted fact that by its letter of 13th June 1961 (Exhibit E-2) the Bank had stated with reference to Mehta's application dated 12th June 1961 that he had been appointed as a temporary clerk-cum-godown keeper-cum-typist in temporary vacancy on purely temporary basis on the terms and conditions specified in that letter. The very first term and condition of appointment as stated in the letter of appointment was that his appointment was on a temporary basis for a period of 37 days during the leave period of Shri V. P. Shah the Bank's permanent clerk-cum-godown keeper. The letter further stated that his services were liable to be terminated at any time during this period by giving him 14 days' notice and would come to an end on the expiry of the above period without any notice. He was required to furnish a medical certificate of fitness as also required to make a security deposit of Rs. 1,000/- before taking charge of his duty. Mehta at the end of the letter of appointment and in acknowledgement of it had stated as follows:—

"I confirm that my appointment is on a purely temporary basis and I agree to be bound by the terms and conditions contained in the letter of appointment and godown keeper's agreement."

7. The next letter from the bank is dated 21st July, 1961, (part of exhibit E-7) which stated that further to the bank's letter of 13th June, 1961, his period of temporary appointment was extended by a further period of one month with effect from 21st July, 1961, on the same terms and conditions as were contained in the bank's letter of 13th June, 1961. At the bottom of this letter Mehta in acknowledging it stated that he had noted its contents. By subsequent letters dated 21st August, 1961, 27th September, 1961, 25th October, 1961, 21st November, 1961, 21st December, 1961, 27th January, 1962, 21st February, 1962, 20th March, 1962, 19th April, 1962 and 22nd May, 1962, Mehta's services were extended till 20th June, 1962, on which date by the bank's letter of that date (Ex. E-4) his services were, as stated earlier, terminated with effect from 21st June, 1962. It is admitted that in the last four letters of the bank it is stated that his appointment, "was purely on temporary basis pending final selection", and at the bottom of each of these letters Mehta had made an endorsement reading "I confirm that my appointment is purely on temporary basis pending final selection". The reason for terminating Mehta's services as stated by the bank was that it was decided by the bank to restrict its recruitment to graduates only and Mehta was only a second division matriculate. It appears that later a relaxation was made by which 3rd division matriculates with two year's banking experience were made eligible for appointment in the bank's branches outside Bombay. In this connection the bank has filed a letter dated 2nd June, 1961, from the staff department of its Head Office at New Delhi addressed to the Assistant General Manager, Bombay (Exhibit E-8).

8. Now, on these facts, the union's case is that Mehta was a probationer as defined by para 508(b) of the Award of the All India Industrial Tribunal (Bank Disputes), popularly known after its Chairman, as the Sastry Award, and that under the directions contained in para 495 of that award he had been automatically confirmed on the completion of his period of probation of six months from the date he joined service on 6th March, 1961, i.e. on 5th September, 1961 and that in any case after six months from 14th June, 1961 i.e. on 13th December, 1961 and, therefore, the termination of his service by the bank's letter dated 20th June, 1962 (Exhibit W-4) was not valid and legal. The Bank, on the other hand, contends that Mehta was not a probationer but was only a temporary employee as defined by para 508(c) of the Sastry Award and that his appointment as stated in the

various letters of appointment (exhibits E-2 to E-7) were as a temporary employee and that Mehta had himself accepted the same as such; that these temporary appointments came to an end on the expiry of each period of appointment, that because a graduate was not available Mehta's services were continued temporarily and that the bank has separate letters of appointment for probationers and for temporary employees. The Bank has also referred to the award of the National Industrial Tribunal (Bank Disputes) presided over by His Lordship Justice Shri K. T. Desai, Chief Justice of the Gujarat High Court, but it is admitted that that award was published and came into force on a date after 21st June, 1962, by which date Mehta's services were terminated. Clearly, therefore, the provisions of the Desai Award cannot apply and it was admitted at the hearing that the case was governed by the directions contained in the Sastry Award.

Para 508(c) of the Sastry Award defines a "temporary employee" as follows:—

"temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature."

Para 508(b) defines a "probationer" as follows:—

"probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service."

9. The union has argued that Mehta was not a temporary employee because he was not appointed in connection with work which was of an essentially temporary nature nor was he appointed as an additional temporary employee in connection with a temporary increase in work of a permanent nature; that he was appointed in leave vacancies of permanent posts and according to the union, he was, therefore, provisionally employed to fill a permanent vacancy or post and had not been made permanent or confirmed in service. According to the union he was a probationer and under para 495 of the Sastry Award on completion of six months' service he automatically became confirmed and termination of his services by the bank was invalid and illegal. Now, para 495 of the Sastry Award, *inter alia*, directs as follows:—

"The Sen Award fixed the period of probation at 6 months, which in certain cases would be extended by 3 months. We respectfully agree with the said direction and direct that ordinarily the period of probation should not exceed 6 months. However, in case of persons whose work is not found to be quite satisfactory during the said period but who are likely to improve and give satisfaction if a further opportunity is given to them, the period may be extended by three months provided due notice in writing is given to them and their consent in writing is obtained before the extension of their period of probationers after the expiry of the period of six months should be deemed to have been confirmed, unless their services are dispensed with on or before the expiry of the period of probation."

10. Shri Raghavachary on behalf of the Bank has, on the other hand, argued that Mehta was not a probationer and was not provisionally appointed to fill a permanent vacancy or post. He has stated that the bank has separate forms of letters of appointment for probationers who are confirmed in the post to which they are appointed as probationers after six months' service. He has in this connection relied upon the letters of appointment issued to Mehta dated 6th March, 1961 (Ex. E-1) and 13th June, 1961 (Ex. E-2) and the subsequent letters (exhibit E-7) in all of which it was clearly stated that he was being appointed as a temporary employee in a temporary vacancy and that his services were liable to be terminated either by giving him 14 days notice or that that his appointment would come to an end on the expiry of the period for which he had been temporarily employed. The bank has relied upon the endorsements signed by Mehta on each of these letters of appointment by which he had accepted the extension of his appointment on the terms and conditions contained in those letters. In my opinion, it is clear from these letters of appointment and the endorsements made thereon by Mehta that he was appointed as a temporary employee and not as a

probationer as contended by Shri Mundul for the union. The appointment letters do not state that he was a probationer employed to fill a permanent vacancy. It may be that he was not appointed for work which is of an essentially temporary nature nor was he employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature. But from the letters of appointment and the endorsements thereon by Mehta himself it is clear that his appointment was a temporary appointment and he was not a probationer who had been provisionally appointed to fill a permanent vacancy. Shri Mundul has argued that the fact that the bank had issued to Mehta letters of appointment and the fact that Mehta had accepted his appointment as a temporary employee cannot avail the bank as this was in violation of the terms of the Sastry Award which only could determine the real nature of his employment. According to Shri Mundul as the employment of Mehta was not that of a temporary employee in terms of the Sastry Award he must be treated as a probationer in spite of whatever description or appellation the bank may have given to his appointment. He further argued that the fact that Mehta had accepted the appointment as a temporary employee could not bind him as he was not at liberty to contract out of the terms of the Sastry Award and that to the extent his contract of service was repugnant to the terms of the Sastry Award, it must be held to be invalid and one that could not be enforced against him. I am not satisfied that this is a case of contracting out of the terms of an existing Award. At no time was it stated that Mehta was a probationer. On the contrary in every letter of appointment, he was specifically informed that he was appointed for a temporary period in a temporary vacancy and he accepted appointment on those terms. If the union's contention were to be accepted it would mean giving a complete go by to the contract which Mehta had himself entered into in which he had accepted appointment as a temporary workman for a temporary period. Besides, there is nowhere any claim made by Mehta or by the union on his behalf that he was a probationer and that on the expiry of 6 months continuous service he had automatically become permanent in service. This claim was raised on his behalf only after his service was terminated. Shri Raghavachary, has, in this connection, relied upon the observations of the Hon'ble Supreme Court in the case of Rohit ~~Industries~~ Ltd., Dalmianagar, Bihar vs. Brijnandan Panday and 95 others (1956 LAC P. 100) where it was observed by their Lordships that, "though Tribunals are not fettered like a Civil Court and may create new obligations or modify contracts in the interest of industrial peace to protect legitimate trade union activities and to prevent unfair labour practices or victimisation, we cannot, however, accept the extreme position canvassed before us that an Industrial Tribunal can ignore altogether an existing agreement or existing obligation for no rhyme or reason whatsoever." In that judgment their Lordships also observed that where employees could be moved from one work to the other the mere circumstances that they were employed in a production department for some time even if true did not make them permanent employees nor did the circumstances that they enjoyed some of the benefits of permanent employees, make them permanent. These observations were followed by the Central Government Industrial Tribunal and Labour Court, Delhi (Shri E. Krishnamurti) in industrial disputes Nos. 155 to 157 of 1961 which were complaints under section 33A of the Industrial Disputes Act filed against this very bank by some of its godown chowkidars at its Madras branch (see Government of India Gazette Part II, Section 3(ii), dated 23rd September, 1961, pages 2409 to 2414).

11. On an anxious consideration of the submissions made by the parties, I cannot accept the union's contention that Mehta was a probationer as defined by para 508(b) of the Sastry Award or that consequently he was entitled to the benefits of para 495 of the Sastry Award.

12. It was next contended on behalf of the union that in any case the termination of the services of Mehta was invalid and illegal as 14 days notice had not been given to him before such termination. Now, Mehta's services were continued for one further month with effect from 21st May 1962 by the bank's letter of appointment, dated 22nd May 1962 (part of exhibit E-7). In other words, by this letter the period of his service was extended till 20th June 1962. Now, by the Bank's letter of 20th June 1962 (part of exhibit E-7) the bank had informed him that he was relieved of his services from the afternoon of that day as his services were no longer required as per the decision of the Head Office. Since Mehta's services were continued by the bank's letter of 22nd May 1962 for a period of one month only with effect from 21st May 1962 i.e. till 20th June 1962, his services automatically came to an end on 20th June 1962 and there was no need for the bank to give him 14 days' notice before terminating his services.

13. In the overall result, I hold that the termination of employment of Shri H. N. Mehta was justified and that he is not entitled to any relief. No order as to costs.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,  
Central Government Industrial Tribunal, Bombay.

[No. 51(35)/62-LRIV.]

**ORDER**

*New Delhi, the 29th January 1963*

**S.O. 395.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the State Bank of India and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Girdhari Lal Chopra, shall be the Presiding Officer with headquarters at Patiala and refers the said dispute for adjudication to the said Industrial Tribunal.

**SCHEDULE**

Whether the management was justified in promoting Shri Baldev Raj to officiate as Head Cashier at the Jullunder City Branch of the Bank in supersession of the claims of Shri Satpal Tandon and, if not, to what relief is Shri Satpal Tandon entitled?

[No. 51(54)/62-LRIV.]

**CORRIGENDUM**

*New Delhi, the 1st February 1963*

**S.O. 396.**—In the Schedule to the order of the Government of India in the Ministry of Labour and Employment, No. S.O. 3419, dated the 5th November, 1962, published at page 3722 of Part II, Section 3(ii), of the Gazette of India, dated the 10th November, 1962,—

for "Sri Ahir" read "Shri Mahabir Ahir".

[No. 28/22/62/LRIV.]

G. JAGANNATHAN, Under Secy.

**COLLECTORATE OF CENTRAL EXCISE, WEST BENGAL, CALCUTTA**

**CENTRAL EXCISE**

*Calcutta, the 2nd January 1963*

**S.O. 397.**—In exercise of the powers conferred on me under rules 15 and 16 of Central Excise Rules, 1944 as amended under Government of India, Ministry of Finance (Department of Revenue) Notification (CE) No. 3/58 dated 11th January 1958 read with rule 233 of Central Excise Rules, 1944, I hereby make the following further amendment to the Collectorate Central Excise Notification No. 6/60 dated the 10th August, 1960, namely:—

In entry at Sl. No. 1 of the schedule to the said Notification, the quantity shown in Column 4 is enhanced from "27 Kg" to "35 Kg".

[No. 1/1963.]

Calcutta the 28th January, 1963

**S.O. 398.**—In exercise of the powers conferred by Rule 5 of the Central Excise Rules, 1944, I hereby empower the officers indicated in column 4 to exercise within their respective jurisdiction the powers of 'Collector' conferred under the provisions of the Central Excise Rules shown in column 3 relating to the special procedure in respect of battery plates subject to the limitations shown in the table appended below:—

| Ser-<br>ial<br>No. | Nature of powers conferred on Collectors   | Rule No.    | Collector's powers to be dele-<br>gated to   |
|--------------------|--|-------------|--|
| 1                  | 2  | 3           | 4  |
| 1.                 | To accept first ASP application for full period for which special procedure can be availed of.   | 96-Y(1)     | Superintendent.  |
| 2.                 | To accept first ASP application for a period less than the prescribed period.  | 96-Y(2)     | Superintendent.  |
| 3.                 | To determine the period for which a manufacturer may be precluded from working under the special procedure, for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him. | 96-Y(3)     | Asstt. Collector.  |
| 4.                 | (a) To accept renewal applications in form ASP.  | 96-Y(4)     | Superintendent.  |
|                    | (b) To condone delay in submission of ASP application for renewal.   | Do.         | (i) Supdt. for condoning delays not exceeding 15 days<br>(ii) Asstt. Collector for condoning delays exceeding 15 days.         |
| 5.                 | To condone delay in submission of application for removal in form A.R. 6 and to condone delays in making monthly deposits.   | 96-Z(2)     | (i) Supdt. for condoning delay not exceeding 5 days.<br>(ii) Asstt. Collector if the delay exceeds the limits under (i) above. |
| 6.                 | To impose following penalties for mis-declaration etc.   |             |  |
|                    | (i) to demand duty at full rate . . . . .  | 96-ZZZ(i)   | Asstt. Collector.  |
|                    | (ii) to confiscate goods . . . . .   | 96-ZZZ(ii)  | Asstt. Collector.  |
|                    | (iii) to impose penalty not exceeding Rs. 2,000/-.   | 96-ZZZ(iv)  | Adjudicating Officers in accordance with their normal limits of powers.  |
|                    | (iv) to debar a manufacturer from availing of special procedure.   | 96-ZZZ(iii) | Asstt. Collector.  |

[No. 2/1963.]

M. C. DAS, Collector.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, MADRAS

CENTRAL EXCISE

Madras, the 9th January 1963

**S.O. 399.**—In pursuance of Rule 5 of the Central Excise Rule 1944, I empower the Central Excise Officers, specified in column 1 of the subjoined table, to exercise within their respective jurisdiction the powers of the "Collector" conferred

by the provisions of Rules, enumerated in column 2 of the table, subject to the limitation set out in column 3 thereof.

TABLE

| Rank of officers  | Central<br>Excise<br>Rule No. | Nature of powers conferred and limitations  |
|---|-------------------------------|---|
| 1   | 2                             | 3   |
| Superintendent  | 96-Y(1)                       | To accept first A.S.P. application for full period for which special procedure can be availed of.   |
| Do.   | 96-Y(2)                       | To accept first A.S.P. application for a period less than the prescribed period.  |
| Asstt. Collector  | 96-Y(3)                       | To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him. |
| Superintendent  | 96-Y(4)                       | To accept renewal applications in form A.S.P.   |
| (i) Superintendent  | Do.                           | To condone delay not exceeding 15 days in submission of A.S.P. application for renewal.   |
| (ii) Asstt. Collectors  | Do.                           | To condone delays exceeding 15 days in submission of A.S.P. Application for renewal.  |
| (i) Superintendent  | 96-Z(2)                       | (i) To condone delays not exceeding 5 days in submission of application for removal in form A.R. 6 and in making monthly deposits.<br>(ii) To condone delays exceeding the limits under (i) above.  |
| (ii) Assistant Collector  | Do.                           | To impose following penalties for mis-declaration etc.<br>(i) to demand duty at full rate.<br>(ii) to confiscate goods.   |
| Assistant Collector   | 96-ZZZ(i)                     | To impose following penalties for mis-declaration etc.<br>(i) to demand duty at full rate.<br>(ii) to confiscate goods.   |
| Asstt. Collectors   | 96-ZZZ(ii)                    | To impose penalty not exceeding Rs. 2000/-  |
| Adjudicating officers in accordance with their normal limits of powers. | 96-ZZZ (iv)                   | To impose penalty not exceeding Rs. 2000/-  |
| Asstt. Collectors   | 96-ZZZ (iii)                  | (iv) To debar a manufacturer from availing of special procedure.  |

[No. C. IV/18/207/58 C.E. (Pol.)  
A. K. ROY, Collector.

### OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE, BOMBAY

(Preventive and Marine Division)

#### NOTICE

Bombay, the 28th January 1963

S.O. 400.—Whereas it appears that the marginally noted goods which were

Seizure of Mechanical lighters, Fountain Pens, Ball-pens, Cosmetics, etc. valued at Rs. 1485 from the shop No. 12, New Cutlery Market, Bombay-2 on 5th June, 1962.

seized by the Dy. Superintendent, Central Excise, Preventive (Customs), Bombay were imported into India in contravention of the Government of India, Ministry of Commerce and Industries Import Control Order No. 17/55, dated 7th December, 1955, issued under the

Import & Export (Control) Act, 1947 and deemed to have been issued under Section 19 of the Sea Customs Act, 1878. Now therefore, any person claiming the goods is hereby called upon to show cause to the Assistant Collector of Central Excise, and Land Customs, Preventive & Marine Division, 5th floor, Central Excise Building, Queens Road, Bombay-1, why the above mentioned goods should not be confiscated under Section 167(8) of the Sea Customs Act, 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods of or to show cause against the action proposed to be taken within 30 days from the publication of this notice in the Government of India Gazette Part II, Section 3 (ii) the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. VIII/10-18/62.]

V. V. TENDULKAR,

Superintendent, Central Excise & Land Customs,  
Preventive (Customs), Bombay.

**OFFICE OF THE COLLECTOR OF CENTRAL EXCISE AND LAND CUSTOMS,  
SHILLONG**

**CENTRAL EXCISE**

*Shillong, the 25th January 1963*

**S.O. 401.**—In exercise of the powers conferred under Rules 15 and 16 of the Central Excise Rules, 1944, as amended, and in supersession of this Collectorate notification No. 2/Tob/58, dated 15th April 1958, it is hereby notified that in the areas comprising of the territories of the States of Assam, Manipur and Tripura, persons growing and/or curing tobacco shall not be required to make any declaration of the variety or varieties of tobacco grown and/or cured and to furnish any particulars relating to such growing and/or curing nor shall they be required to attest any entry in the Range Survey Book in this regard.

2. Provided that whether in the areas specified above any grower grows tobacco on more than 10 Acres of land or a curer cures more than 45 Kgs. of tobacco in one crop-year, the provisions of rule 15 and 16 of the said rules will apply to him.

3. Provided further that in the aforesaid areas control would continue to be exercised over all trade, distribution and transaction as hitherto. Any licensee found in possession of unmanufactured tobacco which he cannot account for will be liable to penalty and the tobacco found with him/ them will also be liable to confiscation.

[No. 1/63.]

B. S. CHAWLA, Collector.

**CENTRAL EXCISE COLLECTORATE, ALLAHABAD**

**CUSTOMS**

*Allahabad, the 1st February 1963*

**S.O. 402.**—I, S. P. Kampani, Collector of Customs, Allahabad do hereby empower officers of Central Excise mentioned in column 2 of the table below to exercise powers specified in the Sections of the Customs Act, 1962 mentioned in the corresponding entry in column 1 of the said Table.

| (1)                 | (2)   |
|---------------------|---|
| Section 101 and 107 | All Officers of Central Excise except clerks and Class IV Officers.                   |
| Section 104         | All Officers of Central Excise of and above the rank of Inspectors of Central Excise. |

[No. 4-Cus/63.]

**S.O. 403.**—I, S. P. Kampani, Collector of Customs, Allahabad do hereby assign the powers specified in Sections of the Customs Act, 1962 mentioned in column 1 of the Table below to officers of Central Excise specified in the corresponding entry in column 2 of the said Table:

| (1)                      | (2)   |
|--------------------------|---|
| Section 100, 106 and 110 | All Officers of Central Excise.                                     |
| Section 103              | All Officers of Central Excise except clerks and Class IV Officers. |

[No. 2-Cus/63.]

**S.O. 404.**—I, S. P. Kampani, Collector of Customs, Kanpur do hereby empower Officers of Central Excise mentioned in column 2 of the Table below to exercise powers specified in the Sections of the Customs Act, 1962, mentioned in the corresponding entry in column 1 of the said Table:

| (1)                 | (2)   |
|---------------------|---|
| Section 101 and 107 | All Officers of Central Excise except clerks and Class IV Officers.                   |
| Section 104         | All Officers of Central Excise of and above the rank of Inspectors of Central Excise. |

[No. 5-Cus/63.]

**S.O. 405.**—I, S. P. Kampani, Collector of Customs, Kanpur do hereby assign the powers specified in Sections of the Customs Act, 1962 mentioned in column 1 of the Table below to officers of Central Excise specified in the corresponding entry in column 2 of the said Table:

| (1)                      | (2)   |
|--------------------------|---|
| Section 100, 106 and 110 | All Officers of Central Excise.                                     |
| Section 103              | All Officers of Central Excise except clerks and Class IV Officers. |

[No. 3-Cus/63.]  
S. P. KAMPANI, Collector.

**MYSORE CENTRAL EXCISE COLLECTORATE, BANGALORE**  
**ORDERS**

Bangalore, the 1st February 1963

**S.O. 406.**—I, N. Mookerjee, Collector of Customs, Mysore at Bangalore, hereby assign the powers specified in Sections of the Customs Act, 1962 mentioned in column 1 of the table below to the Officers of Customs specified in the corresponding entry in column 2 of the said Table:

| (1)                      | (2)  |
|--------------------------|--|
| Section 100, 106 and 110 | All Officers of Customs.                                     |
| Section 103              | All Officers of Customs except clerks and Class IV Officers. |

[No. VIII/1/1/63.]

**S.O. 407.**—I, N. Mookerjee, Collector of Customs, Mysore at Bangalore, hereby assign the powers specified in Sections of the Customs Act, 1962 mentioned in column 1 of the table below to the officers of Customs specified in the corresponding entry in column 2 of the said Table:

| (1)                 | (2)  |
|---------------------|--|
| Section 101 and 107 | All Officers of Customs except clerks and Class IV Officers.                   |
| Section 104         | All Officers of Customs of and above the rank of Inspectors of Central Excise. |

[No. VIII/1/1/63-Cus.]

**N. MOOKHERJEE**, Collector.

### MINISTRY OF COMMERCE AND INDUSTRY

*New Delhi, the 30th January 1963*

**S.O. 408.**—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Tea Act, 1953 (29 of 1953), the Central Government hereby appoints Shri B. N. Chatterjee, an Officer of the Industrial Management Pool, as Secretary of the Tea Board, Calcutta, with effect from the forenoon of the 4th January, 1963.

[No. 1(31)Plant(A)/62.]

**B. KRISHNAMURTHY**, Under Secy.

### ORDER

*New Delhi, the 1st February, 1963.*

**S.O. 409 IDRA/6/15.**—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rule 5(1) of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints Shri George Chadayammuri to be a member, till the 18th January, 1965, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 236, dated the 19th January, 1963, for the scheduled industries engaged in the manufacture or production of Organic Chemicals and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, after entry No. 29 relating to Shri Ramsinghbhai Verma, the following entry shall be inserted, namely:—

“30. Shri C. George Chadayammuri, Secretary, Kerala State Trade Union Council (AITUC), Post Box No. 112, Trivandrum.

[No. 1(15)/L.Pr./62.]

## CORRIGENDUM.

New Delhi, the 1st February, 1963

S.O. 410.—In the Ministry of Commerce and Industry Order No. S.O. 3294, dated the 26th October, 1962, published in Part II Section 3 Sub-section (ii) of the Gazette of India, dated the 3rd November, 1962:

For "16. Shri Ram Sharma," Umrao Industrial Corporation P. Ltd., 54, Mill Area, Kanpur.

Read "16. Shri Ram Sharma" M/s. Umrao Industrial Corporation P. Ltd., 95-A, Marine Drive, 28, Shantiniketan, Bombay-2.

[No. 1(7)/L. Pr./62.]

S. P. KRISHNAMURTHY, Under Secy.

(Department of International Trade)

## ORDER

## EXPORT TRADE CONTROL

New Delhi, the 9th February 1963

S.O. 411.—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:

In Part B of Schedule I to the above Order—

for item 16(iii), the following shall be substituted:—

"(iii) Export to U.K. of cotton manufactures whether in the piece or made up including garments but excluding cotton carpets, cotton rugs, cotton durries, cotton shawls and handloom manufactures other than the variety commonly known as "Bleeding Madras".

[No. E(C)O, 1962/AM(13).]

H. K. SINGH, Dy. Secy.

(Office of the Jt. Chief Controller of Imports &amp; Exports)

## ORDER

Bombay, the 8th January 1963.

S.O. 412.—Whereas M/s. Textile Equipment Co. 11/A, Sitalwadi, Mazgaon, Bombay-10, or any Bank or any other person have not come forward furnishing sufficient cause, against Notice No. 1/151/61/CDN.II, dated the 16th August, 1962 proposing to treat *ab-initio-void* licence No. A-994039/AU/Bom. dt. 1st March 1958 valued at Rs. 25,000/- for the import of Roller Bearing Inserts from the Soft Currency Area except South Africa, granted to the said M/s. Textile Equipment Co., Bombay-10 by the Joint Chief Controller of Imports & Exports, Bombay Government of India, in the Ministry of Commerce and Industry, in exercise of the powers conferred by Clause 9 of the Imports (Control) Order, 1955, hereby order that the said licence No. A-994039/AU/Bom dt. 1st March 1958 issued to the said M/s. Textile Equipment Co., 11/A, Sitalwadi, Mazgaon, Bombay-10 be treated as *ab-initio-void*.

To

M/s. Textile Equipment Co.,  
11/A, Sitalwadi,  
Mazgaon,  
Bombay-10.

R. R. KIRPALANI,  
Dy. Chief Controller of Imports & Exports, Bombay

## (Indian Standards Institution)

New Delhi, the 28th January 1963

S.O. 413.—In pursuance of the provisions of sub-rule (2) of rule 3 of the Indian Standards Institution (Certification Marks) Rules, 1955 as amended in 1962, the Indian Standards Institution hereby notifies that the following Standard the details of which are given in the Schedule hereto annexed, has been recognized by the Institution as an Indian Standard during the quarter ending 31 December 1962.

## THE SCHEDULE

| Sl. No.                   | No. Title and Name of the Organization which prepared and established the Standard                          | No. and Title of the Recognised Standard                      |
|---------------------------|---|---|
| 1. B.S. 2818: Part 3:1957 | Auxiliaries for Operation of Fluorescent Lamps Part 3 Starters<br>British Standards Institution, London W.1 | IS:2215-1962 Specification for Starters for Fluorescent Lamps |

[No. MD/18:1.]

New Delhi, the 30th January 1963

S.O. 414.—In partial modification of the rate of marking fee for Toilet Soap notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 200 dated the 14th January, 1960, published in the Gazette of India, Part II, Section 3(ii), dated the 23rd January 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for Toilet Soap, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with immediate effect.

## THE SCHEDULE

| Sl. No. | Product/Class of Products | No. and Title of relevant Indian Standard   | Unit              | Marking Fee per unit  |
|---------|---------------------------|---|-------------------|---|
| 1       | Toilet Soap               | IS :284-1951 Specification for Toilet Soap. | One Metric Tonne. | 50 nP per unit for the first 3,000 units with a minimum of Rs. 1,000.00 for production during a calendar year.<br>25 nP. per unit for the 3,001st unit and above. |

[No. MD/18:2.]

S.O. 415.—In partial modification of the rate of marking fee for Naphthalene, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.R.O. 208 dated the 31st December, 1957, published in the Gazette of India Part II, Section 3(ii), dated the 18th January, 1958, the Indian Standards Institution hereby notifies that the marking fee per unit for Naphthalene, details of which are given in the Schedule hereto

annexed, has been revised. The revised rate of marking fee shall come into force with immediate effect.

#### THE SCHEDULE

| Sl. No. | Product/Class of Products | No. and Title of Relevant Indian Standard  | Unit              | Marking Fee per Unit |
|---------|---------------------------|--|-------------------|----------------------|
| 1       | Naphthalene .             | IS:539-1955 Specification for Naphthalene. | One Metric Tonne. | Rs. 2.00.            |

[No. MD/18:2.]

New Delhi, the 1st February 1963

**S.O. 416.**—In partial modification of the rate of marking fee for BHC Dusting Powders and BHC Water Dispersible Powder Concentrates, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 3123 dated the 21st December, 1960, published in the Gazette of India, Part, II Section 3(u), dated the 31st December, 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for BHC Dusting Powders and BHC Water Dispersible Powder Concentrates, details of which are given in the Schedule hereto annexed, have been revised. The revised rate of marking fee shall come into force with effect from 1 January, 1963.

#### THE SCHEDULE

| Sl. No. | Product/Class of Products                  | No. and Title of Relevant Indian Standard   | Unit             | Marking Fee per Unit  |
|---------|--|---|------------------|---|
| 1.      | BHC Dusting Powders.                       | IS : 561-1962 Specification for BHC dusting Powders (Second Revision)                       | One Metric Tonne | Rs. 1.00 per unit with a minimum of Rs. 1,000.00 for production during a calendar year. |
| 2.      | BHC Water Dispersible Powder Concentrates. | IS : 562-1962 Specification for BHC Water Dispersible Powder Concentrates (Second Revision) | One Metric Tonne | Rs. 2.00 per unit with a minimum of Rs. 1,000.00 for production during a calendar year. |

[No. MD/ 18:2.]

**S.O. 417.**—In partial modification of the rate of marking fee for DDT Water Dispersible Powder Concentrates, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.R.O. 3089 dated the 11th December, 1956, published in the Gazette of India, Part II, Section 3, dated the 22nd December, 1956, the Indian Standards Institution hereby notifies that the marking fee per unit for DDT Water Dispersible Powder Concentrates, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1 January, 1963.

#### THE SCHEDULE

| Sl. No. | Product/Class of Products                  | No. and Title of Relevant Indian Standard   | Unit              | Marking Fee per Unit |
|---------|--|---|-------------------|----------------------|
| 1.      | DDT Water Dispersible Powder Concentrates. | IS : 565-1961 Specification for DDT Water Dispersible Powder Concentrates (Revised) | One Metric Tonne. | Rs. 5.00             |

[No. MD/18:2.]

D. V. KARMARKAR,

Head of the Certification Marks Division.

MINISTRY OF STEEL & HEAVY INDUSTRIES

(Department of Iron & Steel)

New Delhi, the 1st February 1963

**S.O. 418/ESS.COMM/IRON & STEEL-2(c)/AM(101).**—In exercise of the powers conferred by sub-clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendment shall be made to the Notification of the Government of India in the Ministry of Steel, Mines and Fuel No. S.R.O. 2041/ESS.COMM/IRON & STEEL-2(c), dated the 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said Notification, in columns 2 and 3 thereof, for the existing No. 26(i) against "OTHERS", the following entry shall be substituted, namely:—

(2)

(3)

"26. Director (Sugar Technical) and Deputy Director (Sugar Technical), Ministry of Food and Agriculture (Department of Food), New Delhi 4 and 5".

[No. SC(A)-2(10)/62.]

T. J. VERGHESE Under Secy.